

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

CASE NO. 3:17-cv-02278-X

CHARLENE CARTER,

Plaintiff,

v.

SOUTHWEST AIRLINES CO. and
TRANSPORT WORKERS OF AMERICA,
LOCAL 566,

Defendants.

TRANSCRIPT OF THE TRIAL
BEFORE THE HONORABLE BRANTLEY STARR
UNITED STATES DISTRICT JUDGE

V O L U M E 4

Dallas, Texas

July 8, 2022

8:42 a.m.

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CHARLENE CARTER

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1 -- P R O C E E D I N G S --

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3 THE COURT SECURITY OFFICER: All rise.

4 THE COURT: Thank you, you can be seated.

5 Okay. So we are on day --

6 (Discussion off the record.)

7 THE COURT: Okay. We are on the record
8 for Day 4. Let's knock out appearances right quick.

9 For Carter, Mr. Gilliam.

10 MR. GILLIAM: Matthew Gilliam for
11 Plaintiff Charlene Carter, along with Matt Hill, and
12 Bobby Pryor will be returning shortly.

13 THE COURT: Understood.

14 Okay. And for Southwest.

15 MR. MCKEEBY: Paulo McKeeby with Brian
16 Morris.

17 THE COURT: Okay. Thank you.

18 And then how about for the Union.

19 MR. GREENFIELD: Adam Greenfield and
20 Edward Cloutman III, and Mr. Mike Masoni just walked
21 in.

22 THE COURT: Very good. Thank you.

23 And full disclosure, I walked in at the
24 same time as Mr. Greenfield, asked him how his son
25 was doing, got an update. We didn't talk about

1 anything else.

2 If anyone wants to voir dire me, I'm happy
3 to sit for questions. I will go swear myself in and
4 sit over there.

5 But any time I say more than two or three
6 words to y'all, I will self-disclose and tell
7 everyone anything that happened. Fair enough?

8 Okay. So the first item of business is
9 Brett Nevarez. I understand we don't have him here
10 but we have a phone number. I don't know if anyone
11 knows his temperature on willingness to sit for a
12 depo or testify remotely for trial.

13 Does anyone know anything about Nevarez
14 other than we have a phone number?

15 MR. GREENFIELD: I spoke with him.

16 I don't know is the answer to the question
17 after speaking with him.

18 THE COURT: Sure. Understood.

19 What I thought I would do is tell him,
20 Look, I had a show cause hearing for you. I
21 understand you are not here. I have had multiple
22 court orders for you to sit for a depo.

23 I can compel you to sit for a depo. I
24 can't be the one to compel you to travel here, but I
25 will drop everything if you want to do the depo or

1 testify remotely for trial.

2 What I don't know is, on those options,
3 the trial option could be, Hey, the jury is here at
4 9. Will you go live at 9 and pause Schneider or
5 will you go right after Schneider?

6 I don't know, of the available trial
7 options, what y'all think. So can you illuminate my
8 thinking on the trial versus depo, and if trial, is
9 it pausing Schneider, going now, or is it waiting to
10 complete Schneider, or is it another option at some
11 other time?

12 So what are y'all thinking on Nevarez and
13 the choose-your-own adventure?

14 MR. HILL: So we would like to -- we're
15 sort of being presented with this for the first
16 time. We would like to discuss it amongst counsel
17 to try and reach a conclusion.

18 MR. PRYOR: We can discuss it. But we
19 have talked about our additional time. We would
20 prefer a deposition of him so we can determine what
21 to use.

22 It would be more efficient for us to have
23 a deposition than have him live at trial, but if
24 live at trial is the only option, I guess we will
25 take that option.

1 THE COURT: Well, what I can do, so now
2 it's almost like I'm an FBI hostage negotiator, but
3 what I can do is say, Look, if you will sit for a
4 depo tonight, then I will drop the whole thing as a
5 judge. I won't refer a sanctions motion.

6 MR. PRYOR: That's very generous of you,
7 your Honor. Again, he's ignored three subpoenas
8 that we spent a lot of money serving on him.

9 THE COURT: Yeah. Well --

10 MR. PRYOR: But it's a tradeoff. We'll
11 take it.

12 THE COURT: I should say, I will drop my
13 attempt to punish him myself. You know, that's
14 separate and apart from if you seek monetary
15 sanctions from him.

16 MR. PRYOR: Okay.

17 THE COURT: But I guess I should choose my
18 words carefully.

19 So I won't throw him in jail for punitive
20 contempt for violating multiple court orders. Does
21 that make sense?

22 I care more about getting someone's
23 testimony than punishing one. So if I can get it
24 eventually, that is my goal.

25 Okay. So how about I give a pause right

1 quick, make sure y'all are all comfortable with
2 that. I'm going to put on the white noise. You can
3 talk amongst yourselves if that's a preferred course
4 of action I will pitch tonight. Because I think
5 sooner is better than later with anyone who has
6 shown an inability to comply.

7 (Discussion off the record.)

8 THE COURT: Okay. Back on the record.

9 MR. PRYOR: Your Honor, we really
10 appreciate this opportunity. We were really
11 dreading the weekend. So tonight would be awesome
12 for that deposition.

13 THE COURT: Okay. So I will pitch
14 tonight. Is there a start time that you are going
15 to propose?

16 MR. HILL: 8:00 Central.

17 THE COURT: 8 p.m. Central. Okay. That
18 is 7 p.m. his time?

19 MR. HILL: Yes.

20 MR. McKEEBY: Is there a limitation?

21 THE COURT: So I have limited it to an
22 hour and a half. So I would keep that limit.

23 MR. GREENFIELD: Your Honor, being
24 hopeful, if we are able to set this deposition for
25 tonight, can we extend the briefing deadline that's

1 due at 9 p.m.? Because I was really going to need
2 time this evening to complete that.

3 THE COURT: Yes. So that's for the
4 question on protected conduct, question of law, if
5 so or if not, how do you --

6 MR. GREENFIELD: Yes, your Honor.

7 THE COURT: Yes. So how about we push
8 that 24 hours?

9 MR. GREENFIELD: That would be wonderful.
10 Thank you.

11 THE COURT: Got it.

12 Okay. So any other thoughts before we
13 call Mr. Nevarez? So we are not seeking his live
14 testimony, we are seeking for him to sit for an hour
15 and a half depo at 8 p.m. Central, 7 p.m. New Mexico
16 time tonight.

17 Mr. Frye, can we try to dial up
18 Mr. Nevarez?

19 I will tell you while we are dialing him
20 up, sometimes he can hear me better than we all can
21 hear him. If that happens, our break glass in case
22 of emergency is I'm going to say, We're going to
23 call you back from a different line.

24 Then I will ask one lawyer from each side
25 to come with me into my conference room where it is

1 just a normal speakerphone on the conference table.

2 Does that make sense?

3 So if we have trouble hearing him and
4 can't really communicate effectively, then I will
5 just say we are calling him back, and y'all think
6 who you want to send.

7 Hello. Is this Mr. Nevarez?

8 MR. NEVAREZ: Yes.

9 THE COURT: Okay. Very good. Sorry,
10 Mr. Nevarez. This is Judge Brantley Starr in
11 Dallas, Texas. We have you on speakerphone in a
12 courtroom, and so sometimes that can be difficult
13 for you to hear us or us to hear you. I just want
14 make sure that you can hear us all right.

15 MR. NEVAREZ: Very well.

16 You are going to turn up volume on the
17 speakerphone?

18 THE COURT: Okay. What we are going to
19 do, we are going to call you from a different line.
20 So give us two minutes, and then we will call you
21 from a different phone line.

22 THE WITNESS: Okay.

23 THE COURT: Thank you, sir.

24 Okay. That is our cue. Whoever the
25 designee is, come on back with me.

1 (Recess.)

2 (In chambers.)

3 S H O W C A U S E H E A R I N G

4 THE COURT: Hello.

5 Mr. Nevarez, it is Brantley Starr again.

6 MR. NEVAREZ: Oh, yeah.

7 THE COURT: Is that better?

8 MR. NEVAREZ: It is very clear. Now I can
9 hear you.

10 THE COURT: Very good.

11 So we are my conference I have a lawyer
12 for each of the parties and in this lawsuit with me
13 so everyone is listening in to it and we are on the
14 record. We record everything we do in our court
15 proceedings.

16 So, Mr. Nevarez, as you probably know by
17 now, I set a show cause hearing for your failure to
18 comply with my orders to sit for a deposition.

19 I need to ask you, have you got a copy of
20 that order I entered yesterday saying that we need
21 to visit today at 8:30?

22 MR. NEVAREZ: Yes.

23 THE COURT: Okay. What I am going to tell
24 you is I have the power to ask a judge in New Mexico
25 to send the marshals out to get you in handcuffs to

1 sit for a deposition, but I don't like using that.

2 MR. NEVAREZ: Right.

3 THE COURT: My goal get you to talk at a
4 deposition so that we can use that for a trial.

5 Does that make sense?

6 So while I have the power to do that or
7 the power to seek punitive contempt to sit you in
8 jail some period of time for your failure to follow
9 court orders, I'm more concerned with just hearing
10 what you have to say at a deposition.

11 MR. NEVAREZ: Okay.

12 THE COURT: My request is this. I will
13 not seek any punitive contempt, any jail time; I
14 will not seek the marshals come out and get you, if
15 you can commit to me that you will sit for a video
16 deposition tonight at 7:00, your time, that is
17 limited to an hour and a half.

18 Would you be amenable to that?

19 MR. NEVAREZ: Yes. Reluctantly.

20 THE COURT: Understood. And I don't think
21 anyone has ever wanted to sit for a deposition in
22 their life. So I get your reluctance, generally.
23 I'm sure you have specific as well.

24 What I will do, then, is I will hold off
25 on referring this matter to judge in Las Cruces, so

1 the marshals don't come out after you.

2 What I want to do is to say that I'm going
3 to ask the lawyers, before we start on trial this
4 morning, get the jury in here, if they could send
5 you an email with instructions for how to log on
6 tonight at 7:00, your time; 8:00, our time, to sit
7 for a video deposition.

8 You will just need to make sure you have a
9 web cam and a microphone. And then the flat form
10 they there use Zoom or some other platform, any
11 exhibits that they need to put in front of you will
12 be visible on that platform. So you don't need
13 anything other than a computer with a webcam and
14 microphone.

15 Does that make sense?

16 MR. NEVAREZ: Yes.

17 THE COURT: Any other questions that the
18 lawyers have that they want to ask me?

19 MR. PRYOR: We need the email address.

20 THE COURT: Mr. Nevarez, what email
21 address can you give us?

22 MR. NEVAREZ: Nevinc@msn.com.

23 Nancy, Edward, Victor, I-N-C@msn.com.

24 MR. PRYOR: It looks like the judge got
25 it. I couldn't understand it.

1 THE COURT: Nevinc@msn.com?

2 MR. NEVAREZ: Correct.

3 THE COURT: Very good.

4 Other questions?

5 MR. PRYOR: Your phone number?

6 MR. NEVAREZ: (575)496-6784.

7 MR. PRYOR: Sir, you do have a computer
8 with a webcam?

9 MR. NEVAREZ: Yes.

10 MR. PRYOR: Thank you.

11 THE COURT: All right.

12 Any other questions?

13 Okay. So I will stand down.

14 MR. NEVAREZ: Are you asking me or the
15 lawyers?

16 THE COURT: That is a great question, Mr.
17 Nevarez.

18 So I was asking the lawyers here.

19 Mr. Nevarez, do you have any other
20 questions?

21 MR. NEVAREZ: Yes. I want to know why I
22 wasn't deposed when I was in office. This has been
23 going five years. They have had opportunity in
24 2017, 2018, and discovery has been closed.

25 I don't understand why depositions are

1 required.

2 THE COURT: Well, I understand that.

3 MR. NEVAREZ: This is toward the end of
4 it.

5 THE COURT: I understand that. I have
6 looked another enough to limit your depo. I would
7 normally depositions are allowed to go six hours.

8 Because of the circumstances you have just
9 said, I'm saying that this maxes out at an hour and
10 a half, does that make sense.

11 MR. NEVAREZ: Ninety minutes.

12 THE COURT: Yes. That's correct.

13 MR. NEVAREZ: Okay. And why is it allowed
14 during the trial when they have had discovery for
15 five years?

16 THE COURT: The jury has a fact-finding
17 duty and they would like to hear from you because
18 your name has come up a lot during this trial.

19 MR. NEVAREZ: This was the jury's idea,
20 not --

21 THE COURT: So my job is to listen for the
22 jury, right? I'm not slanted for one party or
23 another. But the jury is entitled to hear the
24 evidence. There are several depositions. You are
25 not the only one, Mr. Nevarez. There are several

1 depositions of short duration that I have allowed in
2 the runup to trial.

3 This is not the only trial I have done. I
4 have it done it probably, half the trials I have
5 had, at the late-breaking stage, everyone realizes
6 there is testimony that the jury should probably
7 hear from. So it is unfortunately a common
8 occurrence.

9 And you are not the only one in this trial
10 it is happening, but I am limiting it to one fourth
11 of the time normally allowed.

12 MR. PRYOR: Can I make an additional
13 comment given the questions?

14 THE COURT: You may.

15 MR. PRYOR: Mr. Nevarez, this is Bobby
16 Pryor, I'm counsel for Ms. Carter.

17 The judge has told you, it is a 90-minute
18 deposition. And then judge will of course correct
19 me it I'm wrong, just so you understand, that means
20 90 minutes on the record, that doesn't include
21 breaks.

22 No. 2, it doesn't include if you are
23 stalling or trying to delay and run out the clock on
24 a deposition.

25 Otherwise certainly that limitation

1 applies, and we will follow it.

2 THE COURT: That's correct.

3 So if you sit there and think for 27
4 minutes about an answer, then that 27 minutes
5 doesn't really count. If you think for 10 seconds,
6 then we will keep the clock on 10 seconds.

7 Any other questions?

8 MR. NEVAREZ: No.

9 THE COURT: All right. Thank you, Mr.
10 Nevarez. I know this isn't pleasant or easy. I
11 appreciate your willingness to help out. I will
12 stand down for now on the assurances that you will
13 be at 7 p.m. on the platform of they send you over
14 email in the next few minutes.

15 So that concludes the show cause hearing.

16 And I will just see what happens from
17 tonight's deposition.

18 Thank you everyone.

19 Court is in recess.

20 (Recess.)

21 THE COURT SECURITY OFFICER: All rise.

22 THE COURT: Okay. Anything before we get
23 the jury?

24 MR. McKEEBY: I do have one thing I would
25 like to raise, your Honor.

1 THE COURT: Go for it.

2 MR. McKEEBY: I would like to re-urge the
3 objection that I've been making with regard to
4 questions that contemplate witnesses asking whether
5 something is protected union activity. I have been
6 objecting on the basis of it being a legal
7 conclusion and I think that is an accurate and fair
8 objection, but I also think it's a problem of
9 vagueness as well in the sense that --

10 THE COURT: I'm right there with you.

11 So I think that if someone has dealt with
12 it, it is not a valid legal conclusion objection,
13 but do we know what we mean by protected activity?

14 So I will ask you -- when you split it
15 apart later on, religion, union speech, I think that
16 helped clarify.

17 Are we talking about the same thing?

18 MR. McKEEBY: Not exactly, I don't think.
19 I think it should be more than that. When you say
20 "union-protected activity," does that mean protected
21 activity under the Railway Labor Act, protected
22 activity under some other law, protected activity
23 under Southwest policies, or protected because it
24 is, you know -- and, in fact, it is not always
25 union-protected activity, sometimes it's

1 union-related activity.

2 Does that mean it's related because of the
3 law, does that mean it's related because
4 conceptually or factually there is some connection
5 with the conduct or the message and the union?

6 The problem is that the witnesses don't
7 understand because the question is not clear, in
8 addition to calling for a legal conclusion, and it
9 is extremely prejudicial because it is going to
10 track language presumably in the -- in the charge.

11 And I think that that is something we need
12 to raise or we can discuss on Monday.

13 But the charge needs to be super clear.
14 Hey, I'm telling you what is protected activity, not
15 the witnesses. And we can discuss that on Monday.

16 But the problem with these witnesses is
17 they don't know what they are answering because the
18 question is ambiguous and it needs more context.

19 Because I can tell you, if the witnesses
20 are asked, Is that protected conduct under the
21 Railway Labor Act, they are going to say, I don't
22 know what you are talking about.

23 And that is what the question is designed
24 to evoke, I think. So I think the question is
25 ambiguous, vague, in addition to calling for a legal

1 conclusion, and that is -- I wanted to re-urge that
2 this morning.

3 THE COURT: So I get your point.

4 I wouldn't make him go so granular as to
5 start saying "protected union activity under the
6 Railway Labor Act," right? At some point it is so
7 granular that we will spend all our time clarifying.

8 I would appreciate if you could get their
9 definition, what's their understanding of what's
10 protected, or if they don't have one, like Schneider
11 didn't at first, then you go and start breaking it
12 up, right? Was this religious? Was this union?

13 And I know you will still have an
14 objection of that being too vague, but I think at
15 some point, if they haven't given you a definition
16 of protected, then you need to define it in some way
17 for them and then ask him if it is that.

18 Does that make sense?

19 MR. PRYOR: I hear what you are saying,
20 your Honor.

21 This is the decision-maker. This is the
22 person that should have known these things, taken
23 them into account.

24 And they can redirect and try and
25 rehabilitate; but for me to have to tell him what it

1 is, he should already know. And I should be able to
2 ask it in any variety of manner.

3 And to define for him under RLA what he
4 should already know, no, I object to having to do
5 that.

6 THE COURT: So I think you have already
7 granulated it in religion and union with him, and
8 you actually got traction.

9 So, I mean, if he asks a question of
10 another witness that is the broad protected activity
11 and we don't have a foundation, raise the objection
12 and I will rule on it then, and we will do the
13 choose your own adventure.

14 So I take your point and I think your
15 point is valid. We will see it come up with future
16 witnesses and figure out what we do with it then.

17 MR. PRYOR: Thank you, your Honor.

18 THE COURT: All right. And exhibits, I
19 know what I'm going to do on all the exhibit
20 objections, but if you want a sidebar when you are
21 raising your objection, just ask for one. Otherwise
22 I will rule on it here and we won't have a sidebar.
23 All right.

24 THE COURT SECURITY OFFICER: All rise for
25 the jury.

1 (The jurors entered the courtroom.)

2 THE COURT: Thank you. You can be seated.

3 Okay. We can bring Mr. Schneider back in.

4 MR. PRYOR: Your Honor, I feel my time
5 ticking away.

6 THE COURT: He's walking quickly. You're
7 good.

8 Welcome back, Mr. Schneider. You can come
9 on and approach that witness box.

10 (The witness entered the courtroom.)

11 THE COURT: We already gave you the oath
12 yesterday. I don't need to give it to you again
13 today. I did ask you yesterday if you would give me
14 the courtesy of not talking to anyone about the
15 case.

16 THE WITNESS: You did.

17 THE COURT: So can you tell me, did you
18 talk to anyone about the case?

19 THE WITNESS: I did not.

20 THE COURT: Okay. Thank you for
21 complying.

22 And Mr. Pryor, you can continue your
23 questions. I will just remind y'all, keep some
24 space between questions and answers, answers and
25 questions.

1 DIRECT EXAMINATION - CONTINUED

2 BY MR. PRYOR:

3 Q. Mr. Schneider, who did you talk to about your
4 testimony yesterday?

5 A. Nobody.

6 Q. What does that RLA mean to you?

7 A. Railway Labor Act.

8 Q. What does that mean in terms of how you did
9 your job in regard to the investigation of the
10 claims against Ms. Carter?

11 A. To do a full investigation and give the --

12 Q. I'm going to apologize to you, and I'm going to
13 correct this, hopefully in the next hour.

14 I don't have my hearing aids on. I noticed it
15 this morning whenever the judge first started
16 speaking. So you are going to have talk into that
17 microphone for me.

18 THE COURT: Can you repeat that question?

19 MR. PRYOR: Yes.

20 BY MR. PRYOR:

21 Q. I've forgotten the question, so I may have to
22 ask a different one. But if you will just speak
23 into the microphone, I will appreciate it.

24 A. Okay.

25 Q. So what does "Railway Labor Act" mean to you in

1 connection with your investigation of claims against
2 Ms. Carter? Into the microphone.

3 MR. McKEEBY: Objection.

4 THE COURT: I will allow it.

5 THE WITNESS: I don't know an answer for
6 that question. I don't know what you mean.

7 BY MR. PRYOR:

8 Q. You'll have to say it a little bit louder for
9 me.

10 A. I don't know what you mean.

11 Q. Okay. Well, I asked you what RLA meant, and
12 you told me Railway Labor Act.

13 Maybe I should -- let me ask a foundational
14 question.

15 Did anything about your understanding of RLA
16 come into play in regard to your investigation of
17 the claims against Ms. Carter?

18 A. What I know about the RLA is that airlines and
19 transportation fall under that guidance, I guess, to
20 some extent, and we are held to that.

21 But beyond that, I don't know it thoroughly
22 enough to be able to answer that question.

23 Q. Therefore, given that that is your
24 understanding of the RLA, it didn't come into play
25 at all in regard to your investigation of

1 Ms. Carter, true?

2 A. Not specifically.

3 Q. Well, how generally, then, sir?

4 A. Only, like I said, that we are held -- that's
5 what an overseeing entity -- it's over the airlines
6 and transportation in general. And we abide by some
7 of those guidelines on there. Specifically how they
8 pertain to this case is what I'm saying I can't
9 answer that exactly.

10 Q. Okay. Great.

11 Tell us the guidelines that came into play in
12 your investigation of Ms. Carter.

13 A. That we give Ms. Carter due process and I
14 conduct a thorough investigation into the
15 allegations.

16 Q. Anything else?

17 A. No.

18 Q. Anything about, if she's engaged in union
19 activity, that it's protected?

20 A. I don't know anything about union protected.

21 Q. You don't know anything about protected union
22 activity under the RLA; that's not part of what you
23 understand of the RLA?

24 A. I'm just saying that I don't know what that
25 means as far as protected speech or activity.

1 Q. All right. I get it. You don't know what
2 protected speech is or what protected union activity
3 is, true?

4 MR. McKEEBY: Objection, asked and
5 answered.

6 THE COURT: I will allow it this last
7 time.

8 THE WITNESS: I don't know.

9 BY MR. PRYOR:

10 Q. You don't know if you don't know, or you don't
11 know what protected speech, protected union activity
12 is?

13 A. I don't know what protected speech, protected
14 union activity would be. I'm for the company, and
15 as far as the Union goes, that's under their realm.

16 Q. Okay. Did you seek any advice of counsel or
17 anyone in regard to that issue before terminating
18 Ms. Carter?

19 A. What issue are you talking about specifically?

20 Q. The issue of whether or not there were
21 protections she was entitled to under the RLA that
22 you were not providing.

23 MR. McKEEBY: Objection, calls for
24 attorney-client privilege.

25 THE COURT: No, I don't think this one

1 does. He can answer.

2 THE WITNESS: I do not know that, if it
3 was -- I did not specifically --

4 BY MR. PRYOR:

5 Q. You don't know what you asked?

6 A. I did not specifically ask somebody about the
7 Railway Labor Act.

8 Q. But did you say you didn't specifically ask?
9 Is that what you said?

10 A. I did not ask anybody about the RLA.

11 Q. You didn't ask at all.

12 I just want to make sure there wasn't a
13 general --

14 THE COURT: Separation between questions
15 and answers. You're talking over each other.

16 MR. PRYOR: I apologize, your Honor.

17 BY MR. PRYOR:

18 Q. What does an 18-month look-back mean to you?

19 A. It means that we can look back in an employee's
20 record for 18 months to see any prior information
21 from that that may pertain to the case.

22 Q. And do you -- is that the guideline or rule
23 that you follow when looking at complaints?

24 A. That is one of the requirements, that we can
25 only go back 18 months.

1 Q. Okay. You know you went back more than 18
2 months in regard to Ms. Carter, though, don't you?

3 A. How so?

4 Q. I'm sorry?

5 A. How so?

6 Q. You don't know, do you?

7 Did you go back more than 18 months in order to
8 terminate Ms. Carter?

9 A. I'm not sure what you are asking as far as 18
10 months for what? Into what area?

11 Q. Let's try it this way: Did you look at any
12 information that you relied upon to terminate
13 Ms. Carter that was older than 18 months? The
14 limit. You just said it was the requirement.

15 A. There is information that was given to me that
16 was more than 18 months, but I didn't consider
17 anything more than 18 months.

18 Q. Are you sure of that?

19 A. In my decision?

20 Q. No. Are you sure that you did not -- yes.

21 Are you sure you did not consider as part of
22 your decision to terminate Ms. Carter information
23 more than 18 months old that you specifically relied
24 upon?

25 A. I did not rely upon anything more than 18

1 months prior to that that was pertinent to the
2 investigation.

3 Q. Did you rely upon information from her Facebook
4 page to provide a nexus in order to say there was a
5 social media policy violation?

6 A. Social media? It possibly could have gone back
7 more than 18 months. I don't know the -- I don't
8 remember the specific dates.

9 Q. I thought you said 18 months was -- required
10 that -- you didn't say it was a guideline, you said
11 that was the requirement. You can't go back more
12 than 18 months.

13 And, in fact, you did try and create a nexus
14 between Ms. Carter's Facebook and Southwest
15 Airlines, true?

16 A. In my understanding, the 18 months goes to play
17 for any past discipline or anything in the file.

18 Q. So wait. So before, I gave you every
19 opportunity to explain it. You said you can't go
20 back more than 18 months to look at anything, and
21 now you are telling us, No, no, it is limited to
22 discipline.

23 MR. McKEEBY: Objection, misstates
24 testimony. Argumentative.

25 MR. PRYOR: I'm happy to read it.

1 THE COURT: Well, let's do that.

2 Do you want to go back?

3 MR. PRYOR: I'm sorry?

4 THE COURT: You offered to read it. I
5 think there is a question on whether you are
6 accurately stating.

7 MR. PRYOR: It was two questions ago,
8 maybe three.

9 BY MR. PRYOR:

10 Q. Sir, what is the 18-month requirement?

11 A. We can't consider anything in their file more
12 than 18 months.

13 Q. Anything in their file. That wouldn't include
14 the Facebook posts that you gathered and put into
15 her file?

16 A. No.

17 Q. So you can go back forever?

18 A. In certain -- when we are looking at Facebook
19 and we are looking at nexus to the workplace, it is
20 not the same thing.

21 Q. You were the person that decided to terminate
22 Charlene Carter, according to Southwest Airlines.

23 A. Yes.

24 Q. Southwest Airlines gave you that
25 responsibility?

1 A. Is that a question?

2 Q. Did anyone at Southwest Airlines tell you that
3 if it involves union activity that is not on the job
4 and it is not illegal, that you shouldn't take
5 action against them?

6 A. No.

7 Q. As you sit here today, has anyone ever told you
8 that?

9 A. They have told me that I cannot consider
10 anything in their file past 18 months.

11 Q. I'm not asking about the 18 months now, sir,
12 but thank you for volunteering that.

13 So you were told that you shouldn't have gone
14 back more than 18 months in the Facebook page, true?

15 A. No.

16 Q. Well, what did you just mean when you said
17 you -- since she was terminated, you've been told
18 you can't go back more than 18 months?

19 A. On anything in the file, the employee's file.

20 Q. That is what you already told us.

21 So why would they be telling that again after
22 Ms. Carter was terminated?

23 A. I don't know what you mean on that.

24 Q. Who is "they," by the way?

25 A. That's the company and Southwest Airlines.

1 Q. Could you put a name on it for us?

2 A. Well, labor relations oversees that.

3 Q. So that is not really a name either. When I
4 mean a name, I mean a human being.

5 A. In this particular case, I talked to Maureen
6 Emlet.

7 Q. Ms. Emlet.

8 Who else?

9 A. About this issue or in general?

10 Q. About this issue. This issue after you
11 terminated Ms. Carter to tell you that -- did anyone
12 tell you that if it is union activity and it is not
13 on the job, that you shouldn't be taking action
14 unless the activity is illegal?

15 A. No one told me that.

16 Q. But Ms. Emlet told you what about the 18
17 months?

18 A. No. You asked me who I referred to, and I said
19 labor relations, and specifically Maureen Emlet.

20 Q. When I asked you if you'd spoken to someone
21 after Ms. Carter was terminated about this issue,
22 and you said yes, someone has spoken to you about
23 this union activity issue, did I misunderstand?

24 MR. McKEEBY: Objection, vague.

25 THE COURT: I will allow it.

1 THE WITNESS: I didn't speak to anybody
2 after the termination.

3 BY MR. PRYOR:

4 Q. Was Ms. Carter on the job when she sent her
5 communications to Ms. Stone?

6 A. She was an active flight attendant for
7 Southwest Airlines.

8 Q. Did you understand my question?

9 A. No.

10 Q. Okay. Do you promise not to be evasive today?

11 A. I'm sorry? I didn't think I was being evasive.

12 Q. Did Ms. Carter -- we've got Southwest Airlines
13 employees here today. If one of them is sitting in
14 the -- if they are off work today sitting in the
15 gallery, are they on the job?

16 A. No.

17 Q. Okay. Then I will ask you again, was
18 Ms. Carter on the job when she sent the
19 communications that she sent to Ms. Stone?

20 A. I'm not aware of where she was when she sent
21 those.

22 Q. It didn't matter to you, did it?

23 A. No. It didn't.

24 Q. Okay. So you are not even aware if she was on
25 the job or not?

1 MR. McKEEBY: Objection, asked and
2 answered.

3 THE COURT: Sustained.

4 MR. PRYOR: Make sure, given his previous
5 answer.

6 MR. McKEEBY: Objection, asked and
7 answered.

8 THE COURT: Sustained.

9 The first one is clear.

10 MR. PRYOR: Okay.

11 BY MR. PRYOR:

12 Q. So you knew that she either was on the job or
13 wasn't and didn't ask, is that fair?

14 MR. McKEEBY: Objection, asked and
15 answered.

16 THE COURT: Sustained.

17 MR. PRYOR: I can't summarize his
18 testimony?

19 THE COURT: Not on something as discrete
20 as that when the answer is clear. Save that for
21 closing argument.

22 MR. PRYOR: Okay.

23 BY MR. PRYOR:

24 Q. Do you know if Ms. Stone was on the job at the
25 time that she received the communication?

1 A. From what I recall with her discussion, yes.

2 Q. What makes you think she was on the job at the
3 time she received it?

4 A. There was a statement made that she received it
5 as she walked down the jetway to the aircraft and it
6 affected her.

7 Q. Do you know what she was actually doing?

8 A. No, sir.

9 Q. So you don't know that she was on the job, do
10 you?

11 A. Not specifically. I know that she was going to
12 the aircraft.

13 Q. She was actually traveling on union business,
14 but you don't know that, do you?

15 A. No, I do not.

16 Q. So you don't know if she was on the job or not,
17 true?

18 A. No.

19 Q. True? That would take a yes if it's true.

20 A. Yes, that is true.

21 Q. Okay. If an employee -- I'm going to give you
22 a hypothetical, okay?

23 If at any time you are misunderstanding what
24 I'm saying, feel free to raise your hand.

25 A. Okay.

1 Q. An employee of Southwest Airlines emails you
2 and tells you, Hey, you know what, I want to use the
3 social media policy to target two people that might
4 be opponents of the upcoming elections for the
5 union, and I want to support the current union
6 membership, and I want to use the social media
7 policy to get them fired.

8 Okay. You got the example so far?

9 A. Vaguely, yes.

10 Q. Okay.

11 You are sitting at your computer, you open up
12 that email. What do you do?

13 MR. McKEEBY: Objection, vague. What
14 email?

15 THE COURT: I will allow it.

16 THE WITNESS: The email was sent to me, is
17 that what you are saying?

18 BY MR. PRYOR:

19 Q. That was the hypothetical, sir. That was the
20 whole point. I even said you opened it up sitting
21 at your desk. You didn't understand that?

22 A. Okay. So I would possibly reach out to them
23 and have a discussion about what their intent was.

24 Q. So you would possibly reach out. So you might
25 not even do that.

1 A. I would have to get details, or if it was more
2 information in the email.

3 Q. So if you got more details that verified
4 exactly what I just told you, that this employee is
5 wanting to target for assassination, termination,
6 two other employees using the social media policy,
7 all you would do is possibly reach out, true?

8 MR. McKEEBY: Objection, vague and --
9 vague.

10 THE COURT: I will allow it.

11 THE WITNESS: I'm not sure what you mean
12 when you say "assassination or termination." Is it
13 both or --

14 BY MR. PRYOR:

15 Q. You don't know what -- target for assassination
16 in this context means get them fired.

17 A. I'm sorry. I didn't understand that.

18 Q. You what?

19 A. I didn't understand that.

20 Q. Okay. I have now told you.

21 So you still, knowing all of that, would only
22 possibly reach out to the employee, true?

23 A. If that were the case specifically, I would
24 reach out to the employee, yes, and possibly
25 employee relations.

1 Q. I'm having a little trouble with the word
2 "possibly."

3 So you've got an employee that threatens to
4 target for assassination, which I will agree means
5 terminate another employee, for invalid grounds
6 using social media policy, and you would only
7 possibly report it to employee relations?

8 MR. McKEEBY: Objection, calls for
9 speculation.

10 And moreover, if it means termination,
11 let's use the word "termination" instead of
12 "assassination."

13 THE COURT: I will allow the question.

14 THE WITNESS: It would depend on the
15 information I find out. That's why I said possibly.
16 I would talk to the person first, find out
17 specifically. Emails can be misread.

18 BY MR. PRYOR:

19 Q. Sure.

20 A. So I would find out details. And that's why I
21 mean possibly reach out to employee relations.

22 Q. Let me tell you that the employee, when you
23 call him or her, verifies 100 percent that, yes, I'm
24 going to try and use social media policy to fire
25 some people that really there is no basis for firing

1 them. And they tell you that. They verify what is
2 in the email.

3 Now what do you do?

4 A. I would have a discussion with them and try to
5 dissuade them from doing so, and let them know the
6 ramifications of doing something like that.

7 Q. But that's all you would do, right? You
8 wouldn't report a target assassination threat like
9 that to employee relations, right?

10 MR. McKEEBY: Objection,
11 mischaracterization. Also speculation.

12 MR. PRYOR: I'm entitled to get a little
13 sarcastic with the witness.

14 THE COURT: I will allow the question.

15 THE WITNESS: I would if it indicated the
16 need to do so.

17 BY MR. PRYOR:

18 Q. Okay. I'm sorry, you would if they didn't back
19 off what they told you, is that what you said?

20 A. If I didn't come to some reconciliation, yes.

21 Q. So if you weren't able to talk them out of it,
22 you would report them to employee relations, true?

23 A. Yes.

24 Q. By the way, let's assume that you did talk them
25 out of it. You then would not report it to employee

1 relations?

2 A. Once again, it would depend on the statements
3 they made and what was indicated to me.

4 Q. I just told you every single statement they
5 made.

6 Now, with those facts, if you called the
7 employee, and the employee says -- finds out you're
8 upset about it and says, Oh, I changed my mind, you
9 would not report that to employee relations, true?

10 A. I can't say that within 100 percent. I mean,
11 it would -- it would depend on what was --

12 Q. Say within 99 percent then.

13 MR. McKEEBY: Objection --

14 THE WITNESS: I don't know.

15 THE COURT: Sustained.

16 BY MR. PRYOR:

17 Q. 98 percent?

18 MR. McKEEBY: Objection, asked and
19 answered.

20 THE COURT: Sustained.

21 BY MR. PRYOR:

22 Q. In February of 2017, at the same time you
23 received Charlene Carter, the complaint regarding
24 Charlene Carter, did anyone make you aware that
25 other members of the Union were reporting other

1 members of the Union supporting a recall for
2 violations of the social media policy?

3 A. I found that out during the investigation.

4 Q. What did you find out during the investigation
5 about that?

6 A. There was a statement written, I'm pretty sure
7 it was by Ms. Carter, that there is a vote, and
8 people are voting to oust the Union leadership.

9 Q. That's all you learned?

10 A. Yes.

11 Q. Did you look into that?

12 A. No.

13 Q. Did you ever speak to Sonya Lacore about it?

14 A. No.

15 Q. Sonya Lacore was notified of Ms. Stone's
16 complaint at the time Ms. Stone made the complaint,
17 true?

18 A. Say that once again.

19 Q. Sonya Lacore was notified of the complaint made
20 by Ms. Stone against Ms. Carter at the time it was
21 made in February of 2017?

22 MR. GREENFIELD: Objection, your Honor,
23 lack of foundation, and because of that it calls for
24 speculation.

25 THE COURT: Sustained.

1 Can you back up?

2 BY MR. PRYOR:

3 Q. Do you recall the complaint that Ms. Stone
4 filed?

5 A. Yes.

6 Q. Do you know who was included on that complaint,
7 among others, Sonya Lacore?

8 A. I don't recall today.

9 Q. Well, I'm going to go ahead and let you assume
10 that Sonya Lacore was notified on that complaint. I
11 will show it to you in a little while, okay?

12 You got what you are assuming?

13 A. Yes.

14 Q. And if Ms. Lacore was aware of information that
15 in fact, at this same time she was aware that an
16 employee in the Union supporting Ms. Stone was
17 reporting people, actually the very same day, for
18 violations of social media policy, would you expect
19 her to have told you that?

20 MR. GREENFIELD: Objection, your Honor,
21 still lack of foundation. If he would like the
22 witness to assume something, he can --

23 THE COURT: Hold on. That is a speaking
24 objection. You can ask for a sidebar if you need
25 it.

1 I will overrule that.

2 You can answer.

3 THE WITNESS: I don't know.

4 BY MR. PRYOR:

5 Q. You wouldn't want to know that, would you?

6 That would be information you wouldn't want as part
7 of your fair and impartial investigation, right?

8 A. I don't understand the question.

9 Q. Do you not understand what "fair and impartial"
10 is? What did you miss?

11 A. The entire question.

12 Q. Really.

13 So you would not want to know that, in fact,
14 the Union, with the knowledge of Ms. Stone, who is
15 making the complaint on February 22, 2017, were also
16 bringing social media policy violations against
17 other recall supporters like Ms. Carter, you
18 wouldn't want to know that, would you?

19 MR. McKEEBY: Objection, vague,
20 foundation.

21 THE COURT: I will allow it.

22 THE WITNESS: That was not part of my
23 investigation on the information I received on
24 Ms. Carter.

25

1 BY MR. PRYOR:

2 Q. You wouldn't want to know that, right? You
3 don't think that's relevant, right?

4 A. If it was relevant, I would want to know it,
5 yes.

6 Q. How would you know if it is relevant if
7 somebody doesn't tell you about it?

8 A. If somebody doesn't tell me about it, then I
9 wouldn't know about it.

10 Q. Okay. So let's go back to my question.

11 If Ms. Lacore was aware of that, would you have
12 expected her to have informed you, since she was on
13 the complaint?

14 A. I would expect Ms. Lacore to take whatever
15 action she deems necessary. I can't speculate what
16 that would be.

17 Q. If she deemed necessary to keep it a secret
18 from you, that is okay with you?

19 A. She would have to make that decision.

20 Q. Sorry?

21 A. That would be a decision she would make. I'm
22 not sure what you mean by that.

23 Q. Well, I'm just saying, if I was -- wouldn't you
24 want that type of information to evaluate the
25 validity of Ms. Stone's complaints or were you not

1 interested in that?

2 A. I would like any information that relates to
3 the investigation.

4 MR. PRYOR: Let's look at Exhibit 66.

5 THE COURT: It is in. You can publish.

6 BY MR. PRYOR:

7 Q. It will be on the screen in front of you.

8 If you ever need a hard copy -- I can provide
9 you a hard copy at any time, but I've kind of been
10 pulling things in and out of folders. If you need
11 it, I think I can get it for you. It should be on
12 your screen any minute now.

13 Any hour now.

14 A. It's a blank screen right now.

15 I've got a waterfall.

16 Q. Patience is not a virtue I own.

17 I'm on the verge of handing you a hard copy.

18 MR. McKEEBY: Given that that appears to
19 be your reality, what document are we talking about?

20 THE COURT: 66.

21 MR. PRYOR: There we go.

22 BY MR. PRYOR:

23 Q. Okay. Here is Exhibit 66.

24 And you are not on this email, but it was
25 forwarded to you, correct?

1 A. I don't know for sure. I'm not sure what this
2 is. I only see the top paragraph.

3 Q. You don't recognize this, right? You don't
4 recognize her complaint?

5 A. I would have to see farther down. I don't -- I
6 only see the beginning of it.

7 Q. So you need to see the one that was forwarded
8 to you, right?

9 A. If I remember right, this looks familiar to the
10 one that was sent to me.

11 Q. When's the last time you reviewed the
12 complaint?

13 A. Within the past week.

14 Q. I'm sorry?

15 A. Within the past week.

16 Q. When is the last time you reviewed Audrey
17 Stone's complaint?

18 MR. McKEEBY: Objection, asked and
19 answered.

20 THE COURT: I will allow this
21 clarification.

22 THE WITNESS: For a specific day? Friday.
23 I mean --

24 BY MR. PRYOR:

25 Q. This past Friday, true?

1 A. Yes.

2 Q. Okay. This past Friday you reviewed it, and
3 you can't tell us that you received this document,
4 true?

5 A. This one wasn't addressed to me.

6 Q. You didn't look at this?

7 A. I looked at a version of this that was
8 forwarded to me.

9 Q. That's the point I'm making, sir. This
10 document was forwarded to you, true?

11 A. There it is, the whole thing. Yes.

12 Q. Is that a yes?

13 A. This one was sent to me.

14 Q. I just need to know if you said yes.

15 A. Yes, this one was sent to me.

16 Q. Okay. So I appreciate you taking five minutes
17 to answer something about a document you looked at
18 on Friday.

19 MR. MCKEEBY: Objection, improper argument
20 of counsel.

21 THE COURT: Sustained.

22 BY MR. PRYOR:

23 Q. Now, this is from Audrey Stone, true?

24 A. Yes.

25 Q. And it's sent to Suzanne Stephenson?

1 A. Yes.

2 Q. That's the base manager in Las Vegas?

3 A. Yes.

4 Q. And it is also sent to Naomi Hudson, someone
5 with labor relations and management at Southwest
6 Airlines?

7 A. Yes.

8 Q. And it was sent to Sonya Lacore, and she was --
9 I'm not sure of her title, but she was high up in
10 in-flight, true?

11 A. True.

12 Q. Would Sonya Lacore, would you expect her to be
13 involved in the investigation?

14 A. Not at her level. She would be aware of it,
15 but she wouldn't be involved with the investigation.

16 Q. So you can't think of a reason why Audrey Stone
17 would include Sonya Lacore on here, could you?

18 MR. GREENFIELD: Objection, your Honor,
19 calls for speculation.

20 THE COURT: I will allow him to answer, if
21 he has personal knowledge.

22 THE WITNESS: I don't know why she sent
23 it.

24 BY MR. PRYOR:

25 Q. Do you have any understanding at all as to why

1 someone senior in in-flight would be included on
2 Audrey Stone's complaint sent to her base manager?

3 MR. GREENFIELD: Objection, asked and
4 answered. And it's lack of foundation, which calls
5 for speculation.

6 THE COURT: I will sustain on foundation.

7 MR. PRYOR: Which was sustained, your
8 Honor?

9 THE COURT: Foundation.

10 BY MR. PRYOR:

11 Q. Sir, you received complaints from employees
12 about other employees?

13 A. Yes.

14 Q. You understand the process at Southwest
15 Airlines about how that is done?

16 A. How what is done?

17 Q. How complaints are handled.

18 A. Yes.

19 Q. And you have been there 28 years, and for at
20 least a significant part of that time, you have been
21 handling complaints?

22 A. Yes.

23 Q. And I'm asking you, based on your understanding
24 of the process at Southwest Airlines, can you think
25 of a reason why it would be necessary to have Sonya

1 Lacore on the complaint?

2 MR. GREENFIELD: Objection, again, lack of
3 foundation, which calls for speculation.

4 And I would be happy to sidebar to flesh
5 that out, if you need me to.

6 THE COURT: If you want a sidebar, I will
7 let you.

8 MR. GREENFIELD: I don't think I do.

9 THE COURT: So I will overrule on lack of
10 foundation. I will allow him to answer based on the
11 speculation objection, if he has personal knowledge.

12 THE WITNESS: I don't have personal
13 knowledge of why it was sent to her.

14 BY MR. PRYOR:

15 Q. I'm not asking about your personal knowledge,
16 I'm asking about your personal knowledge of the
17 practices and policies of Southwest Airlines.

18 Now, there's your knowledge. Within that
19 knowledge, can you think of a reason why Sonya
20 Lacore should be on this complaint?

21 MR. McKEEBY: Objection, asked and
22 answered.

23 THE COURT: I will allow it.

24 MR. GREENFIELD: Your Honor, I would renew
25 my foundation objection. And if -- and it's

1 irrelevant for the purposes of --

2 THE COURT: No speaking objections,
3 though.

4 Sustained on irrelevant.

5 MR. PRYOR: Your Honor, I object to the
6 continuous objections to try and assist this witness
7 in not answering questions.

8 THE COURT: I'm overruling the objections.
9 You can answer the question.

10 THE WITNESS: This was sent by Audrey
11 Stone.

12 BY MR. PRYOR:

13 Q. Um-hmm.

14 A. I don't know why she included the people that
15 she did in the email.

16 Q. That wasn't my question, was it?

17 I understand what you want to answer, sir, but
18 you are under oath to answer the questions I ask
19 you.

20 MR. GREENFIELD: Objection, argumentative.

21 BY MR. PRYOR:

22 Q. Would you answer my question?

23 THE COURT: Sustained.

24 Ask the question.

25

1 BY MR. PRYOR:

2 Q. I did. Would you answer it?

3 A. You'll have to repeat that. I don't know what
4 the question is then.

5 Q. Let's do it again. This is another five
6 minutes to get a basic fact from you.

7 MR. GREENFIELD: Objection, your Honor, to
8 the sidebar --

9 MR. PRYOR: You've got -- your
10 knowledge --

11 THE COURT: Sustained.

12 Please ask the question.

13 BY MR. PRYOR:

14 Q. -- your 28 years of knowledge about Southwest
15 Airlines's process. Have you got it so far? Your
16 knowledge. No one else's, yours.

17 A. Yes.

18 Q. Within that knowledge, take that vast knowledge
19 and tell us any explanation you can come up with for
20 why Sonya Lacore has to be on this complaint.

21 MR. GREENFIELD: Objection, your Honor, to
22 the relevance then.

23 THE COURT: I will allow it.

24 THE WITNESS: I don't know why she is on
25 this email.

1 MR. PRYOR: Object, nonresponsive.

2 BY MR. PRYOR:

3 Q. Once again, sir, did I ask you why Audrey Stone
4 included it on there?

5 What is your education?

6 A. Generally?

7 Q. What is your education, sir?

8 A. I have a bachelor's degree in aviation.

9 Q. Okay. I'm just trying to see if you understand
10 the difference between me asking you what Audrey
11 Stone did and what you understand based on your
12 knowledge.

13 Do you see the difference?

14 A. I don't see the difference.

15 Q. Okay. So I'm going to try it again, and don't
16 tell me, I don't know what Audrey Stone was
17 thinking, because I'm not asking you that.

18 MR. GREENFIELD: Objection.

19 MR. MCKEEBY: Objection. He's not --

20 THE COURT: Sustained.

21 Just ask the question.

22 MR. PRYOR: I'm sorry?

23 THE COURT: Sustained.

24 Ask the question.

25

1 BY MR. PRYOR:

2 Q. You got your 28 years of experience, and you've
3 handled complaints during a lot of that 28 years.

4 And tell me, based on your knowledge and
5 understanding and belief about Southwest's policies,
6 a reason you could come up with, when you saw this,
7 on why Sonya Lacore should be on this complaint?

8 A. I don't know the answer to that question.

9 Q. You can't think of a reason, can you?

10 MR. McKEEBY: Objection, asked and
11 answered.

12 MR. PRYOR: I'm exploring his answer.

13 THE COURT: I will allow this one.

14 THE WITNESS: Can you repeat the question?

15 BY MR. PRYOR:

16 Q. You can't think of a reason, can you?

17 A. Sonya Lacore is the vice president of in-flight
18 who oversees all employees and flight attendants of
19 Southwest Airlines. So I don't even know why she
20 would be included on that specifically because there
21 is more people below her in the chain of command.

22 Q. Okay.

23 A. So.

24 Q. I appreciate you finally getting to the answer.
25 You can't think of a reason.

1 But how about the fact that Audrey Stone was
2 aware that Sonya Lacore had been talking with people
3 at the Union about targeting people for social media
4 violations? Would that be a reason?

5 MR. McKEEBY: Objection, foundation.

6 THE COURT: Sustained.

7 BY MR. PRYOR:

8 Q. Let's look at: "Dear Suzanne. Below you will
9 see Facebook messages that were sent to me last week
10 by Southwest Airlines flight attendant Charlene
11 Carter. It is in regards to a TWU Local 556 Women's
12 Committee Meeting that I participated in last month
13 and a march that I voluntarily participated in a few
14 days later."

15 Did I read that correctly for you?

16 A. Yes.

17 Q. You know that the complaint involves Charlene
18 Carter complaining to her union, right off the bat,
19 true?

20 A. Yes.

21 Q. Okay. So it didn't take days of investigation,
22 you knew in the second sentence of the complaint
23 that this involved union activity, right?

24 That's okay, you already told us. You can say
25 it again.

1 A. It says that it involves -- regards TWU Local
2 556.

3 Q. Sir, you just told us you knew it involved
4 union activity. All I have added now is you knew
5 right away because it is in the second sentence.
6 Are you changing your answer?

7 MR. McKEEBY: Objection. He's not
8 changing his answer.

9 THE COURT: Sustained.

10 MR. PRYOR: Your Honor, I did not hear the
11 objection. I heard "sustained," but I didn't hear
12 the objection.

13 MR. McKEEBY: Let me make a formal
14 objection.

15 Objection, mischaracterizes testimony,
16 argumentative.

17 THE COURT: I will sustain that.

18 BY MR. PRYOR:

19 Q. Did you know when you read the second sentence
20 of this complaint that it involved Charlene Carter
21 engaging in union activity?

22 MR. McKEEBY: Objection, asked and
23 answered.

24 THE COURT: I will allow this.

25

1 BY MR. PRYOR:

2 Q. You can answer, I think.

3 THE COURT: Yes.

4 THE WITNESS: Yes. The ---

5 BY MR. PRYOR:

6 Q. And then, even more so, she goes on to say, "Up
7 until December, I chaired RTW committee, which works
8 with TWU international to collectively help build
9 future women leaders and address women issues."

10 Again, talking about that union activity, true?

11 MR. McKEEBY: Again, your Honor, object as
12 vague for the reasons discussed.

13 THE COURT: I will allow this. I will
14 allow it. You can answer.

15 MR. PRYOR: I object to the constant
16 objection. There is nothing vague. I read what the
17 agreement says.

18 THE COURT: I can't control him any more
19 than I can control you, and everyone has been very
20 active today.

21 Can you answer the question or do you need
22 him to repeat it?

23 THE WITNESS: No, I can answer.

24 THE COURT: Okay. Thank you.

25 THE WITNESS: It does state details about

1 the union, yes.

2 BY MR. PRYOR:

3 Q. Details about union activity, true?

4 Did you want to leave out the word "activity"
5 for a reason?

6 A. No.

7 Q. Why did you leave it out of your answer?

8 You repeated my question but you left that word
9 out, as opposed to answering it directly.

10 MR. McKEEBY: Objection, argumentative.

11 THE COURT: I will allow it.

12 THE WITNESS: I was just trying to be
13 brief in my explanation.

14 BY MR. PRYOR:

15 Q. Then why did you leave it out?

16 Instead of just saying yes, you repeated my
17 question and left out a word, "activity."

18 And that was just an accident, okay? Right?

19 MR. McKEEBY: Objection. This is legal
20 argument or some kind of argument.

21 THE COURT: I will allow it.

22 THE WITNESS: It was not intentional.

23 BY MR. PRYOR:

24 Q. Okay. Then let's try it again.

25 You knew, in reading this sentence, that it

1 involved union activity, the complaint, true?

2 A. Yes.

3 Q. It says, "The messages contain two graphic
4 videos of an alleged aborted fetus and make
5 references to murder as well as political and
6 religious comments."

7 Is it correct to say that you knew by the time
8 you read the second paragraph that this complaint
9 involved political speech and religious activity.
10 True?

11 A. I don't know about the activity. It says
12 "religious comments."

13 Q. So you don't think "religious comments"
14 involves religious activity?

15 A. I'm just being specific is all. Because you
16 asked me about activity last time. I'm just trying
17 to be clear.

18 Q. I'm asking you to interpret what you read.

19 Did you believe it involved religious activity
20 and political activity, given she's telling you it
21 is involving political and religious comments?

22 MR. McKEEBY: Object to -- object to the
23 characterization of what the document says.

24 THE COURT: I will sustain that.

25

1 BY MR. PRYOR:

2 Q. Do political and religious comments involve
3 activity? Or can you have comments without
4 activity?

5 MR. McKEEBY: Objection, vague.

6 THE COURT: I will allow it.

7 THE WITNESS: I would take it for what it
8 says, that it was political and religious comments.

9 BY MR. PRYOR:

10 Q. Okay. So when it says comments, can you think
11 of any way to make a political comment or a
12 religious comment without that falling within the
13 definition -- you have got a college degree --
14 within the definition of "activity"?

15 MR. GREENFIELD: Objection, relevance.

16 THE COURT: I will allow it.

17 THE WITNESS: Emails, like I said before,
18 can be misrepresented. So I would take for what it
19 says specifically, religious comments.

20 MR. PRYOR: Object to the responsiveness.

21 BY MR. PRYOR:

22 Q. That it not the question I asked.

23 A. I'm missing the question then. I'm sorry.

24 Q. I'm asking you to close your eyes to this
25 document, all you want.

1 The question is: Tell us, is there any way to
2 interpret the phrase "political and religious
3 comments" in a way that it would not involve
4 activity?

5 MR. McKEEBY: Objection, vague.

6 BY MR. GILLIAM:

7 Q. In a vacuum. Forget this complaint.

8 Any example in the entire world that you come
9 up with. I can't wait to hear it.

10 THE COURT: I will allow.

11 THE WITNESS: I wouldn't relate the two.
12 I would take I can what it says.

13 BY MR. GILLIAM:

14 Q. Of course, you wouldn't be able to; it involves
15 activity, true?

16 MR. McKEEBY: Objection, argumentive.

17 Asked and answered.

18 BY MR. PRYOR:

19 Q. Go ahead.

20 A. It involves comments.

21 THE COURT: Hold on. What is your second
22 objection?

23 MR. PRYOR: I don't remember.

24 THE COURT: I think asked and answered, is
25 what you said?

1 MR. McKEEBY: I think asked and answerer,
2 but there was another. That is the one I don't
3 remember.

4 THE COURT: I will sustain on asked and
5 answered.

6 MR. McKEEBY: Thank you.

7 THE COURT: Not on vague.

8 MR. PRYOR: What it is sustained on?

9 THE COURT: Asked and answered.

10 MR. PRYOR: Did the Court have to come up
11 with the objection? I mean, I'm fine either way.

12 THE COURT: The realtime is down. He said
13 it, but you were talking over him. So I thought he
14 said asked and answered.

15 MR. PRYOR: I'm sorry, your Honor.

16 BY MR. PRYOR:

17 Q. All right. Then it says, "I found the messages
18 to be incredibly disturbing and believe it to be a
19 violation of social media policy."

20 Do you see that?

21 A. No. It is below the screen.

22 There.

23 Q. Hang on.

24 Do you see it now?

25 A. Yes, I do.

1 MR. PRYOR: Okay.

2 THE STENOGRAPHER: I have to restart.

3 THE COURT: Hold on. We are going to have
4 to restart the writer.

5 MR. PRYOR: Let's look at 19.

6 THE COURT: We can't. We have to restart
7 the writer. Can we take a quick break while we
8 restart? I'm sorry to do our morning break early
9 twice, but we got to do it reboot.

10 Same instructions as always. Only talk to
11 your fellow jurors and court personnel, don't talk
12 to anyone about the case, and don't do any research
13 about the case.

14 We will see you in 10 minutes at 10:00.

15 THE COURT SECURITY OFFICER: All rise for
16 the jury.

17 (The jurors exited the courtroom.)

18 THE COURT: And same for you, you can
19 leave the box but you can't talk to anyone about the
20 case, Mr. Schneider.

21 Any questions? Issues that anyone wants
22 to talk about?

23 We are off the record.
24
25

1 (Recess.)

2 THE COURT SECURITY OFFICER: All rise.

3 THE COURT: Okay. Anything else?

4 All right. Let's get the jury.

5 I will say, we may try to do lunch on the
6 early side, not do another break but do lunch sort
7 of in the 11:30 to 11:45 range, if that makes sense.

8 I try to not stay on the record for more
9 than -- I mean, two hours is pushing it. I try to
10 do less than that. Does that make sense?

11 So whoever has got the mic at that time,
12 think through 11:30 to 11:45 as a break time.

13 MR. PRYOR: I can't stand up that long.
14 That's great.

15 (The jurors entered the courtroom.)

16 MR. PRYOR: I wish that was a joke.

17 THE COURT: Okay. You can be seated.

18 Mr. Pryor, you can continue. We are back
19 on the record. Thanks for bearing with us.

20 BY MR. PRYOR:

21 Q. Mr. Schneider, when you do an investigation, is
22 evaluating the credibility of witnesses part of what
23 you do?

24 A. No, not specifically their credibility. You
25 mean as far as their standing with the company, or

1 what part of that? I don't quite understand.

2 Q. You don't consider credibility?

3 A. Can you explain what you mean by "credibility."

4 Q. No.

5 A. Okay.

6 Q. You don't know what credibility means?

7 A. Well, my understanding of credibility is their
8 standing in the company. Is that what you are -- or
9 their overall in life?

10 Q. Sir, when you interview a witness, do you
11 consider whether or not they are telling you the
12 truth or telling you a lie?

13 A. Yes.

14 Q. Okay. Let's go with that definition of
15 credibility, okay? Do you do that?

16 A. Do I do that? What is that?

17 Q. When you are doing an investigation and you are
18 interviewing a witness, do you consider their
19 credibility?

20 A. I do consider the fact whether they are telling
21 the truth.

22 Q. What about if they are telling a lie, do you
23 consider that?

24 A. Yes. Truth or lies.

25 Q. Okay. But that is not what you view as

1 credibility. I just want to make sure we don't use
2 the wrong term.

3 A. If that's the definition for "credibility" you
4 want to use, then yes, I can use that.

5 Q. I'm not giving you a definition of
6 "credibility," sir. You have already given us one.

7 I'm just making sure that you don't consider
8 the credibility of witnesses the way you defined the
9 word "credibility." True?

10 MR. McKEEBY: Objection, asked and
11 answered.

12 THE COURT: Sustained.

13 BY MR. PRYOR:

14 Q. Let's look at Exhibit 19.

15 Have you ever seen this document before?

16 A. I don't recall this document.

17 Q. I will represent to you this is a President's
18 Message written and authored by Audrey Stone.

19 You know who that is, right?

20 A. Yes.

21 Q. Let's go to the next page.

22 She says, among other things, "In regard to the
23 social media policy, we have witnessed
24 inconsistencies around the way the policy is applied
25 and the often subjective stance that Southwest

1 management has displayed in administering the
2 policy."

3 I'm going to skip down to the last paragraph on
4 that page.

5 It says, "On a personal note, however, please
6 know that the social media issues management
7 investigated, and the resulting discipline Southwest
8 Airlines issues did not arise out of something
9 management simply uncovered or stumbled upon. They
10 are not generally monitoring our sites.

11 "Instead, these cases come about as our own
12 flight attendants are turning each other in. These
13 latest investigations have been the result of flight
14 attendant complaints.

15 "I am asking that we please consider stopping
16 any back-and-forth fighting on social media. We are
17 not always going to agree with one another, but
18 please recognize that your fellow employees are
19 entitled to their own thoughts and opinions. If we
20 have a problem, let's work it out as the
21 professionals that we are. Please respect one
22 another."

23 Would that be consistent with Ms. Stone filing
24 a complaint against another flight attendant using
25 the social media policy?

1 A. Are you asking me if that is what she did, or
2 is this --

3 Q. No, I'm asking you to evaluate. You now have
4 two pieces of evidence. You are an investigator.
5 Tell us, is that consistent?

6 A. She's asking employees to be nice to each other
7 and considerate.

8 Q. I'm not asking you -- we all know what it said,
9 sir, and you obviously misstated what it said.

10 I'm asking you a question. Is this document
11 consistent with filing a complaint against another
12 flight attendant under the social media policy?

13 You are the investigator. Are those things
14 consistent?

15 MR. GREENFIELD: Your Honor --

16 MR. McKEEBY: Objection, argumentative,
17 vague.

18 THE COURT: Hold on.

19 MR. GREENFIELD: And argumentative, and
20 objection to the sidebars as well, your Honor.

21 THE COURT: You've got to do one at a
22 time.

23 So please restate your objection.

24 MR. McKEEBY: Objection, argumentative,
25 vague.

1 MR. GREENFIELD: Argumentative, and the
2 sidebars within his commentary.

3 THE COURT: I will sustain on the sidebar.
4 Can you reask it?

5 MR. PRYOR: Sustain on who?

6 THE COURT: You had sidebar commentary in
7 your question. Can you go ahead and reask a plain
8 question.

9 MR. PRYOR: Can I just say ignore the
10 sidebar? It's hard for me not to sidebar.

11 Okay. I will do better.

12 BY MR. PRYOR:

13 Q. Sir, here comes the question.

14 Exhibit 19, which I just read to you where
15 Ms. Stone -- you know what we read. And you know
16 that she has then filed a complaint against another
17 flight attendant under the social media policy.

18 Are those things consistent with one another or
19 inconsistent?

20 A. I don't know the exact message she was trying
21 to portray in her memo here, but I would say the
22 egregiousness of a flight attendant turning
23 something in on social media would have something to
24 do with it. I'm not sure that's what she was
25 referring to in her memo, though.

1 Q. So I didn't hear the answer. Is it consistent
2 or inconsistent?

3 A. I cannot say that.

4 Q. Okay. Would you have -- in determining
5 credibility or truthfulness or falseness of a
6 witness during your investigation, would you have
7 considered this information if it had been given to
8 you?

9 A. No.

10 Q. Why not?

11 A. It wasn't part of my investigation of what was
12 the crux of the investigation.

13 Q. So you would not have considered evidence that
14 would have shown that a key witness was being
15 inconsistent, true?

16 MR. McKEEBY: Objection --

17 MR. GREENFIELD: Objection,
18 mischaracterizes.

19 THE COURT: Sustained.

20 BY MR. PRYOR:

21 Q. Would you have considered evidence that would
22 indicate one of the witnesses you are talking to
23 might not be telling you the whole truth?

24 A. If I had information that proved that, that
25 would be good to have, yes.

1 Q. Okay.

2 A. I'm not saying this does, though.

3 Q. As a matter of fact, you are saying this does
4 not, true?

5 A. I'm saying that I don't know what her point was
6 for sure that she was making here, and that the
7 information that was given to me about social media
8 and what was posted were probably not the same
9 thing.

10 Q. When she says, "Don't report each other for
11 social media violations," that's ambiguous to you?

12 A. Does it specifically say that?

13 MR. McKEEBY: Objection, mischaracterizes
14 the --

15 MR. PRYOR: Well, I can read it again.

16 THE COURT: I will allow it.

17 BY MR. PRYOR:

18 Q. You don't think it says that?

19 THE COURT: I will allow the question.
20 I'm overruling the objection.

21 MR. PRYOR: I'm rephrasing the question
22 now. I don't remember what it was.

23 THE COURT: Sure. You can ask it again.

24 MR. PRYOR: You were apparently
25 considering an objection. I didn't hear --

1 THE COURT: I overruled the objection.

2 But at this point, I don't know that he
3 knows the question.

4 So you can ask the old question --

5 MR. PRYOR: Since either one of us know
6 the question --

7 THE COURT: -- or a new question. It is
8 up to you.

9 BY MR. PRYOR:

10 Q. It says in Exhibit 19, "I'm asking that we
11 please consider stopping any back-and-forth fighting
12 over social media."

13 And she before that has said, "What's happening
14 is flight attendants are reporting each other."

15 And then she's saying, "Let's be professional.
16 Let's respect each other's opinions."

17 And that's not -- you don't interpret that as
18 her saying, Let's not report things under the social
19 media policy. That thing is a mess. You don't see
20 it that way?

21 A. No.

22 Q. You do not?

23 A. I do not.

24 Q. And how do you see it?

25 A. My interpretation is that she's talking about

1 the back and forth on social media.

2 Q. Exactly.

3 What was this? What was this complaint?

4 A. This was turning in somebody for posting
5 something and sending specific Facebook messages to
6 her.

7 Q. Wait. What is the difference?

8 A. My interpretation is that she's talking about
9 on social media itself where people comment back and
10 forth.

11 Q. Okay.

12 A. And they're possibly not being nice about it.

13 Q. Okay. How is that not this?

14 A. Because this is something that she turned in
15 that somebody posted directly to her on a private
16 message.

17 Q. That's your answer?

18 A. Yes.

19 Q. That's your distinction?

20 A. Yes.

21 Q. Okay.

22 A. I'm saying that I can't say what she's
23 portraying here exactly, if it is the same thing, to
24 warrant if she was being honest or not.

25 Q. Let's look back at Exhibit -- let me ask you

1 something I asked earlier. I want to clarify and
2 make sure I understood your answer.

3 When I asked you, were you aware that people in
4 the Union were reporting other people in the Union
5 for social media policy targeting recall petition
6 supporters at the same time as Ms. Stone brought
7 this complaint against Ms. Carter, you were not
8 aware of that?

9 A. That was a long question, but I think I got the
10 gist of it. No.

11 Q. And if you had been aware of it, you would have
12 considered that in your evaluation of the witnesses
13 and the evidence, true?

14 A. I can't say that.

15 Q. Well, so you have got Ms. Stone -- you knew, by
16 the way, that Ms. Carter was a recall supporter?

17 A. A recall supporter? Of the --

18 Q. Yes.

19 A. Yes. She gave me that information in the
20 meeting.

21 Q. So you knew that Ms. Carter was a recall
22 supporter, and a social media complaint was being
23 brought against her by the president of the Union.

24 You knew that much, right?

25 A. Yes.

1 Q. Would it have been important to know that, in
2 fact, the Union also had a member bringing charges
3 against other recall supporters for violations of
4 social media policy?

5 MR. McKEEBY: Objection, calls for --

6 BY MR. PRYOR:

7 Q. Would you have wanted to know that in order to
8 determine credibility?

9 MR. McKEEBY: Objection, foundation, calls
10 for speculation.

11 THE COURT: I will sustain on foundation.

12 BY MR. PRYOR:

13 Q. Would you have wanted to know --

14 MR. PRYOR: I'm trying to understand the
15 foundation issue, so I'm trying to create the
16 foundation.

17 BY MR. PRYOR:

18 Q. Would you have wanted to know that information
19 if there was this big conspiracy going on to target
20 recall petitioners using social media policy?

21 MR. McKEEBY: Same objection as to
22 vagueness.

23 THE COURT: I will sustain on foundation.

24 You've got to back up and set the
25 foundation first and then ask it. I don't think

1 this is a topic we have covered yet enough to
2 warrant the question.

3 BY MR. PRYOR:

4 Q. I wish I understand and I wish I had heard you,
5 so I'm going to try anyway.

6 Sir, you understand Audrey Stone was bringing a
7 social media policy violation against a fellow union
8 member or objector and using social media policy
9 when you received a copy of Exhibit 66, Ms. Stone's
10 complaint, true?

11 A. Yes.

12 Q. And if at that same time you became aware that,
13 in fact, that same union leadership that Ms. Stone
14 was involved with were bringing charges against
15 other recall petition supporters for social media
16 policy and that this was a plan, would you have
17 wanted to know that?

18 A. That was not part of my investigation, and that
19 is not something that pertained to what I was
20 investigating.

21 Q. So you would not have wanted to know that,
22 true?

23 A. True.

24 Q. Were you aware of that?

25 MR. McKEEBY: Objection, asked and

1 answered, I think.

2 THE COURT: I will allow it.

3 THE WITNESS: Was I aware of what? The
4 fact that -- I don't understand the question.

5 BY MR. PRYOR:

6 Q. Were you aware that charges were being filed
7 against other recall supporters for violations of
8 social media policy at the same time Ms. Carter was
9 charged?

10 A. I was not aware of that.

11 MR. PRYOR: Okay. Let's look at 21-E.

12 MR. GREENFIELD: Your Honor, if I may ask
13 to see this document.

14 THE COURT: 21-E is not in evidence yet.
15 We will keep the screen muted.

16 MR. PRYOR: Oh, it may not be. It is
17 getting ready to be. I offered 21-E.

18 MR. GREENFIELD: I just want to see what
19 you're talking about before --

20 THE COURT: And I've got the jury screens
21 muted so you can bring up 21-E.

22 MR. GREENFIELD: I don't know that I have
23 an objection. I just want to see what you are
24 talking about, Mr. Pryor. Thank you.

25 MR. PRYOR: Don't put it to the jury yet.

1 MR. HILL: It's not.

2 MR. PRYOR: Okay. I offer 21-E.

3 THE COURT: All right. I will ask if
4 there are objections other than the normal 21
5 objections.

6 MR. McKEEBY: The normal 21 objections.

7 MR. GREENFIELD: Normal.

8 THE COURT: Okay. So I will overrule the
9 normal objections, let in 21-E with a limiting
10 instruction that it's for use in the claims against
11 the Union, not for use in the claims against in
12 Southwest.

13 We can publish.

14 (The referred-to document was admitted
15 into evidence as Plaintiff's Exhibit 21-E.)

16 BY MR. PRYOR:

17 Q. Let's look at 21-E.

18 MR. GREENFIELD: Your Honor, if I may make
19 another objection at sidebar then.

20 THE COURT: Okay. We need to mute it
21 then.

22 (Thereupon, the following proceedings were
23 had at sidebar:)

24 MR. GREENFIELD: Your Honor, if this
25 document is only being used for evidence against the

1 Union, then how it affected Mr. Schneider's decision
2 to terminate then makes this line of questioning
3 irrelevant.

4 THE COURT: So you've got an objection to
5 the question, not to the exhibit.

6 MR. GREENFIELD: To the -- well, no. To
7 the exhibit now based on this use. It is being
8 presented in a different use case.

9 The limiting instruction that you just
10 gave to the jury is that this evidence is not to be
11 used against Southwest, right? So that is what this
12 document is going to be used against, that he
13 believed this conspiracy existed.

14 MR. PRYOR: First of all, it goes to
15 credibility. He just said he wasn't aware of
16 anything like that. He wasn't aware of other
17 complaints about social media policy.

18 He's on the email that shows there are 12
19 people, that charges are being served against them
20 for violations of social media policy.

21 MR. GREENFIELD: I don't believe that was
22 his testimony.

23 THE COURT: So I will let you ask it.

24 I think what I'm chiefly concerned about,
25 it can't be used in the claims against Southwest,

1 right? And we can't have Southwest discipline
2 coming into the case. So this is early enough to
3 where I will let it in, but again, you can --

4 MR. PRYOR: I have, from the first day of
5 trial, I still feel bad because I think I stepped on
6 a limine. And you ruled and you limited and I
7 appreciate it. I have not violated it since and I
8 won't here. I understand the ruling.

9 THE COURT: Okay. I will let you do it.

10 (Thereupon, the sidebar was concluded and
11 the following proceedings were held in open
12 court:)

13 THE COURT: I have admitted 21-E, and you
14 can proceed with your questions.

15 BY MR. PRYOR:

16 Q. Who is Julie O'Grady?

17 A. She's a senior investigator for employee
18 relations.

19 Q. Okay. And do you see your name on this email?

20 A. Yes.

21 Q. It says, "After reviewing the attached
22 information, below it are the names of flight
23 attendants, the time and date of comments in 2014,
24 and the comment they made on social media that could
25 be perceived as retaliatory."

1 Do you see that?

2 A. Yes.

3 Q. You received this on February 27th while you
4 were doing your investigation of Ms. Carter. True?

5 A. Yes.

6 Q. And did you become aware that this was
7 information supplied by Brian Talburt, a supporter
8 of Ms. Stone?

9 A. No.

10 Q. Are you sure of that?

11 A. Was I aware of --

12 Q. Yes. You don't recall being on an email where
13 they said this was -- Brian Talburt is bringing all
14 this -- gathering all this -- scouring the Internet
15 for this information?

16 A. I don't recall at this time that that was
17 something I was aware of.

18 Q. At what time do you recall it?

19 You said, "I don't recall at this time." I
20 don't know what that means other than there must be
21 some other time that you do recall it.

22 A. I don't recall being aware of this.

23 Q. What did you mean by "at this time"?

24 A. Right now, today.

25 Q. Why did you feel the need to clarify that?

1 Were you concerned there is a document that
2 would show something else?

3 A. I don't understand that questioning.

4 Q. What do you not understand?

5 I'm testing the credibility of your answer
6 because I don't believe it. If you are asking me a
7 question.

8 MR. McKEEBY: Objection to the argument --

9 MR. PRYOR: He asked me.

10 MR. GREENFIELD: Objection --

11 THE COURT: Hold on. We can't talk over
12 each other.

13 What's the objection again?

14 MR. McKEEBY: Argumentative.

15 MR. GREENFIELD: And objection to the
16 continued use of sidebars.

17 THE COURT: I will sustain on both bases.

18 BY MR. PRYOR:

19 Q. If you look at Exhibit 21-E, it refers to
20 Jeanna Jackson and potential social media policy
21 violations by Jeanna Jackson.

22 Do you see that?

23 A. No, sir. It must be below -- it must be below
24 the screen.

25 Q. I can give you a hard copy or something.

1 A. Okay.

2 Q. If we need to blow that up for you, let me
3 know.

4 A. I'm good.

5 Q. Do you see it now?

6 A. Yes. I see the name Jeanna Jackson.

7 Q. Do you see that charges are being brought as to
8 Jeanna Jackson for potential violation of social
9 media policy, true?

10 A. Yes.

11 Q. Do you know who Jeanna Jackson is?

12 A. I've heard of her.

13 Q. Tell us what you've heard.

14 A. She's a Dallas-based flight attendant.

15 Q. That's all you know, right?

16 A. Yes.

17 Q. You don't know that she was the leader of the
18 recall petition against Ms. Stone and her
19 administration?

20 A. I may have found that out during the
21 investigation.

22 Q. Okay. You may have. Did you or didn't you?

23 A. I remember the name and being associated with
24 the recall.

25 Q. So you received an email telling you that

1 charges are being brought against Jeanna Jackson for
2 potential violation of social media policy. Who did
3 you think was bringing those charges?

4 MR. McKEEBY: Objection, mischaracterizes.
5 There is nothing about charges in this document.

6 THE COURT: I will allow you to rephrase
7 "charges" and ask the same question.

8 MR. PRYOR: Am I rephrasing?

9 THE COURT: Yes.

10 MR. PRYOR: Okay.

11 BY MR. PRYOR:

12 Q. Sir, is it correct that you were aware, during
13 the time you were investigating claims against
14 Ms. Carter for social media policy by the president
15 of the Union, that Jeanna Jackson was also being
16 investigated for potential social media policy
17 violations? True?

18 A. Yes.

19 Q. Who brought those complaints?

20 A. I'm not aware.

21 Q. Did you ever become aware?

22 A. I don't recall that.

23 Q. Well, if you had become aware, wouldn't you
24 have included that in your investigation?

25 A. This was not part of my investigation and I

1 didn't include it.

2 Q. So you were aware that -- you knew she was a
3 recall petition supporter? Did you know that?

4 A. Who is "she"?

5 Q. Jeanna Jackson.

6 A. Yes. I found out in my investigation.

7 Q. Okay. What about these others? Did you find
8 out, in fact, every single one of them is a recall
9 supporter?

10 A. I don't see the others.

11 Q. Well, let's show you the rest of them.

12 MR. GREENFIELD: Objection, lack of
13 foundation to his testimony about who these
14 individuals are. There is nothing being presented
15 to the Court on that.

16 THE COURT: I will allow you to ask.

17 BY MR. PRYOR:

18 Q. How about Beverly Belanger? Do you know she's
19 a recall supporter?

20 A. No.

21 MR. GREENFIELD: Objection, your Honor.
22 He's offering --

23 BY MR. PRYOR:

24 Q. Did you inquire?

25 MR. GREENFIELD: Excuse me.

1 Objection, your Honor. He's offering
2 testimony that has not been presented to the Court.

3 THE COURT: Well, lawyers can't offer
4 testimony, so I'll tell the witnesses [sic],
5 everything you hear out a lawyer's mouth is not
6 testimony, it is not evidence.

7 You can ask your question.

8 MR. PRYOR: Okay. I just want to see, was
9 the objection that there's no foundation that these
10 are recall petition supporters?

11 THE COURT: There has been testimony on
12 who the recall supporters have been in this case.

13 You can ask if he knows if someone is a
14 recall supporter.

15 BY MR. PRYOR:

16 Q. Do you know whether or not Michelle Foley was a
17 recall petition supporter?

18 A. No.

19 Q. What about Charlene Bates Carter?

20 A. Through this investigation.

21 Q. Do you know whether or not Charlene Bates
22 Carter was a recall petition supporter?

23 A. Yes.

24 Q. So you know, at a minimum, two people on this
25 list that are recall petition supporters, and social

1 media policy violations are being investigated,
2 true?

3 A. Yes.

4 Q. What about Greg Hofer? Do you know if he's a
5 recall petition supporter?

6 A. No.

7 Q. You don't know?

8 A. I don't know.

9 Q. And by the way, did you ask?

10 A. No.

11 Q. Why were you included on this email, I wonder?

12 MR. McKEEBY: Objection. Is that a
13 question?

14 MR. PRYOR: Yes. It's just another way to
15 ask a question, yes.

16 THE COURT: I will allow it.

17 MR. GREENFIELD: Well, then I would object
18 to the lack of foundation, and it calls for
19 speculation because if he didn't send it, he
20 wouldn't know why.

21 THE COURT: Overrule on foundation.

22 As to speculation, you can only answer if
23 you have personal knowledge.

24 THE WITNESS: I don't have personal
25 knowledge of this.

1 BY MR. PRYOR:

2 Q. Do you have any understanding from your 28
3 years of experience with Southwest Airlines why you
4 would be included on this email?

5 A. Only that Charlene Bates at the time was
6 Denver-based.

7 Q. So someone wanted you to be aware of this
8 knowing that you were investigating Charlene Carter,
9 true?

10 MR. McKEEBY: Objection, foundation.

11 MR. PRYOR: It's what his answer was. Now
12 I'm --

13 THE COURT: I will allow the question.

14 MR. GREENFIELD: Then I would object to
15 speculation because it is now asking what he knew in
16 that regard or why he was -- again, why he was --

17 THE COURT: Hold on. That's a speaking
18 objection.

19 I will overrule the objection and only
20 allow him to answer if he has personal knowledge.

21 THE WITNESS: I don't have personal
22 knowledge as to why.

23 BY MR. PRYOR:

24 Q. Okay. Let's go back to my question.

25 From your 28 years of experience, do you have

1 any understanding as to why it would be that you
2 were included on this email?

3 You know how the structure works at Southwest
4 Airlines.

5 This isn't your investigation, is it? No one
6 asked you to investigate these people, did they?

7 MR. GREENFIELD: Objection, compound
8 question. Multiple questions.

9 MR. McKEEBY: And objection, asked and
10 answered.

11 THE COURT: Okay. Sustained.

12 Break it up, and we will see if there is
13 another objection.

14 BY MR. PRYOR:

15 Q. Did anyone ask you to do the investigation of
16 the persons listed in this email?

17 A. Only the one that was assigned to my base in
18 Denver.

19 Q. Well, what was assigned to you, Ms. Carter?

20 A. Yes.

21 Q. And if you look at the page where Ms. Carter is
22 listed, it says, "Charlene Bates Carter, Jeanna
23 Jackson, I agree. We need to expose each and every
24 one of them to their hypocrisy and nastiness."

25 That's what you were asked to investigate?

1 A. Those comments, yes.

2 Q. You were asked to investigate those comments?

3 A. Not me particularly. It was sent to me, but I
4 have people in my base that do that.

5 But, yes, those comments are what they are
6 referring to in the message of the email.

7 Q. What did you do in regard to investigating
8 those comments?

9 By the way, were those comments sent to Audrey
10 Stone?

11 A. I don't know that.

12 Q. So you, therefore, must have gathered
13 information about these comments, since you viewed
14 this email as saying you are to investigate this,
15 right?

16 A. At the time this happened, I had somebody else
17 on my team handle this.

18 Q. Okay. So who did you have investigate -- by
19 the way, this is not a complaint by Audrey Stone,
20 true?

21 A. I don't recall it being from Audrey Stone.

22 Q. Well, do you see anything in this email, have
23 you ever seen anything saying that Audrey Stone was
24 bringing this specific complaint against Ms. Carter?

25 A. I can only see one portion of this, so I don't

1 know.

2 Q. What do you want to see?

3 MR. PRYOR: Give me the exhibit. I will
4 give him the whole thing. It's in the boxes.

5 BY MR. PRYOR:

6 Q. So did you -- I assume, since you were told to
7 investigate this complaint, we are going to see when
8 you interviewed Ms. Carter, you asked her about
9 these specific comments in this email, because how
10 else could you investigate it, right?

11 A. I don't recall that part of it.

12 Q. Sir, let me hand you --

13 MR. PRYOR: May I approach?

14 THE COURT: You may.

15 BY MR. PRYOR:

16 Q. I'm going to hand you Exhibit 21-E.

17 Because you were to investigate the comments on
18 the second page that Ms. Carter's -- that are
19 attributed to Ms. Carter.

20 If you were asked to investigate that, when you
21 interviewed Ms. Carter, you certainly would have
22 asked her about those comments, true?

23 MR. McKEEBY: Objection, mischaracterizes.
24 Objection, compound.

25 MR. GREENFIELD: And objection on our end,

1 vague. We don't know which investigation he's
2 talking about at this point or which --

3 THE COURT: Hold on. That is speaking.
4 Sustained.

5 Can you break it up, clarify it?

6 MR. PRYOR: What was the --

7 THE COURT: Compound and vague is what I
8 sustained on.

9 MR. PRYOR: Okay. I will break it up.

10 BY MR. PRYOR:

11 Q. You have told us that you were on this email
12 because you were tasked with investigating these
13 comments regarding Ms. Carter -- that are attributed
14 to Ms. Carter, true?

15 A. Yes.

16 Q. Okay. So, therefore, when you interviewed
17 Ms. Carter as part of your investigation, you asked
18 her about these comments, true?

19 MR. McKEEBY: Objection.

20 MR. GREENFIELD: Objection, your Honor,
21 vague. Which investigation are we referring to?

22 THE COURT: I will allow it.

23 THE WITNESS: These were two separate
24 investigations.

25

1 BY MR. PRYOR:

2 Q. Okay. And you didn't do the separate
3 investigation?

4 A. I don't remember.

5 Q. Who did the separate investigation?

6 A. I don't remember. That was five years ago.

7 Q. Well, a lot of things were five years ago.
8 Did you assign this to someone?

9 A. Most likely, yes.

10 Q. You have no recollection of doing that?

11 A. I don't at this ---

12 Q. Do you know that Ms. Carter was never
13 interviewed about this?

14 A. I don't know that.

15 Q. Well, you assigned it to someone to
16 investigate. How can they investigate it without
17 interviewing Ms. Carter?

18 A. There is not a time frame on this.

19 Q. So maybe she will get a notice in a week or so
20 from now?

21 MR. McKEEBY: Objection, argumentative.

22 THE COURT: Sustained.

23 BY MR. PRYOR:

24 Q. There is no time frame?

25 MR. McKEEBY: Objection.

1 THE COURT: He asked if there is no time
2 frame. What's your objection?

3 MR. McKEEBY: I was objecting to the first
4 question. I don't understand the second one.

5 THE COURT: I sustained that.

6 So the second question is: There is no
7 time frame. You can answer.

8 BY MR. PRYOR:

9 Q. So the time frame is still running; it could
10 happen at any time, right?

11 A. Ms. Carter doesn't work for the company
12 anymore.

13 Q. Well, so up until the time she was terminated,
14 they could have investigated this claim?

15 A. Yes.

16 Q. And do you know that, in fact, it never
17 occurred?

18 A. I don't know that.

19 Q. So you were tasked with doing this, and you
20 didn't take that task seriously enough to find out
21 if it was done?

22 A. Not in the time frame before she was
23 terminated.

24 Q. So you thought that since you terminated her,
25 that you didn't have to worry about this one

1 anymore, true?

2 A. It may have been worked on, I don't know. I
3 don't remember.

4 Q. You don't remember who you assigned it to. You
5 think that it wasn't investigated because you fired
6 her before this investigation would be completed?

7 MR. McKEEBY: Objection, mischaracterizes
8 testimony.

9 THE COURT: I will allow it.

10 BY MR. PRYOR:

11 Q. You can answer.

12 A. I don't remember the details of this.

13 Q. Well, you remember the detail that you were
14 assigned the investigation of this claim.

15 By the way, where in this email does it say you
16 were assigned this investigation?

17 A. It states that it was sent to me.

18 Q. I understand. It was sent to a lot of people.

19 Where does it say, Oh, by the way, Ed, you are
20 the one that needs to investigate Ms. Carter? It
21 doesn't say that, does it?

22 A. Not specifically.

23 Q. What does it generally say then?

24 A. It says my name on the "to" for the email.

25 Q. So you are supposed to know from that that you

1 are the one that is supposed to investigate this?

2 A. Farther down it says, "Please work with labor
3 relations and your HR business partner."

4 So I would assume by this email that they mean
5 my team look into this.

6 Q. All right. Let's go back to Exhibit 66.

7 Ms. Stone is saying, "I find the messages to be
8 incredibly disturbing and to be a violation of the
9 social media policy." Right?

10 A. Yes, that's what it says.

11 Q. "I find it obscene and violent as well as
12 threatening in nature." Correct?

13 A. Yes. That's what it says.

14 Q. Then it says, "I also believe it is a violation
15 of the workplace bullying and hazing policy under
16 cyberbullying." Right?

17 A. Yes.

18 Q. And tell me where the cyberbullying policy is.
19 Is there one?

20 A. The workplace bullying and hazing policy refers
21 to cyberbullying.

22 Q. Workplace bullying is cyberbullying? Yes?

23 A. Cyberbullying could be workplace bullying and
24 hazing policy.

25 Q. Let's look at the -- let's look at that

1 cyberbullying policy.

2 Let me figure out which exhibit it is.

3 MR. HILL: 15.

4 MR. PRYOR: Someone says 15.

5 MR. HILL: 13?

6 MR. PRYOR: Whichever one it is.

7 THE COURT: It is not in yet.

8 MR. GREENFIELD: Can we mute the jury?

9 MR. PRYOR: Is it in evidence?

10 THE COURT: No.

11 MR. PRYOR: We offer Exhibit 13.

12 THE COURT: 13. Objections to 13?

13 MR. McKEEBY: No objection.

14 MR. GREENFIELD: No objection.

15 THE COURT: Okay. 13 is in. We will

16 unmute it for the jury to see.

17 (The referred-to document was admitted
18 into evidence as Plaintiff's Exhibit 13.)

19 MR. PRYOR: Let's blow that up a little
20 bit.

21 BY MR. PRYOR:

22 Q. Can you see it, sir?

23 A. I do, yes.

24 Q. Okay. Show me where the cyberbullying is so we
25 can talk about that.

1 You told us it's in here. Just point to it for
2 me.

3 A. This may not be the latest version of it.

4 Q. I'm sorry?

5 A. This may not be the latest version of it.

6 Q. Well, sir, you see April 16, 2015? This was
7 the policy in place at the time you investigated
8 Ms. Carter. You don't know that?

9 MR. McKEEBY: Objection, foundation.

10 THE COURT: Sustained.

11 You've got to ask him.

12 BY MR. PRYOR:

13 Q. You think there is another version of this?

14 A. I don't know. I know that cyberbullying was
15 part of our workplace bullying and hazing policy.

16 Q. Okay. So this is what we asked Southwest
17 Airlines. Give us your policy. This is what they
18 gave us.

19 MR. GREENFIELD: Objection --

20 BY MR. PRYOR:

21 Q. You are telling us there is something else.

22 MR. GREENFIELD: Objection, your Honor,
23 testimony, and it's talking about --

24 THE COURT: Sustained.

25

1 BY MR. PRYOR:

2 Q. So at least as to this, there is nothing in
3 here about cyberbullying, correct?

4 A. I haven't read the whole thing.

5 Q. Read it.

6 A. I don't see it specifically listed in this one.

7 Q. But it's your sworn testimony there was a
8 workplace bullying cyber -- what did you call it,
9 cyber --

10 A. What it referred to in the other letter.

11 Q. Cyberbullying policy that you considered in
12 terminating Ms. Carter, true?

13 A. Not a cyberbullying policy.

14 Q. Oh. A cyberbullying non-policy. Is that what
15 you considered?

16 A. No.

17 Q. What did you consider?

18 A. I considered the totality of the workplace
19 bullying and hazing policy.

20 Q. Did you look at and consider a written
21 cyberbullying policy in deciding to terminate
22 Ms. Carter, as you have already testified, or does
23 this change your opinion?

24 A. I don't know of a cyberbullying policy. I know
25 cyberbullying was referred to.

1 Q. You just told us a few minutes ago that she
2 violated a cyberbullying policy, and I said, Where
3 is it?

4 And you said, It's in the workplace bullying
5 policy.

6 And it is not there, right, at least not this
7 document, true?

8 A. True.

9 Q. Okay. So are you standing by your testimony
10 that you absolutely did consider a written
11 cyberbullying policy in regard to terminating
12 Ms. Carter, as you initially testified?

13 A. When you refer to "cyberbullying policy," I'm
14 only talking about the workplace bullying and hazing
15 policy which contained a cyberbullying --

16 Q. Okay. Great. Tell us once again, then, where
17 it is. It's right here in front of you. Where is
18 it?

19 A. It's not on this page.

20 Q. But you are telling us there is one. You are
21 certain because you considered it in terminating
22 Ms. Carter, true?

23 A. I considered the totality of the workplace
24 bullying and hazing.

25 Q. Did you consider the written cyberbullying

1 policy contained within the workplace bullying and
2 hazing policy that you've told us about?

3 A. No.

4 Q. Is there one?

5 A. I stated that there is not a cyberbullying
6 policy. I have stated that the workplace bullying
7 and hazing policy had a comment about cyberbullying
8 in it.

9 Q. Okay. But this one doesn't?

10 A. Correct.

11 Q. And when you terminated Ms. Carter, you were
12 looking at a workplace bullying policy that included
13 a comment about cyberbullying, true?

14 A. No, I don't know that for sure. I don't
15 remember. Because what you are saying is that the
16 previous letter that was up referred to
17 cyberbullying, and I wasn't aware of that.

18 Q. Sir, I'm just asking you to pick a story and we
19 can talk about it. Which one are you going with?

20 MR. McKEEBY: Objection, argumentative.
21 Sidebar.

22 THE COURT: Sustained.

23 MR. PRYOR: He's told several stories.
24 I'm entitled to call him on it.

25 THE COURT: You can ask. Just rephrase

1 it.

2 BY MR. PRYOR:

3 Q. All right. So we can agree that this phantom
4 cyberbullying policy is not in this document, right?

5 MR. McKEEBY: Objection to the sidebar
6 about the phantom policy.

7 MR. PRYOR: It wasn't sidebar, it was
8 sarcasm, and I'm allowed.

9 THE COURT: I will allow this question.

10 BY MR. PRYOR:

11 Q. You can answer. It's not in here, is it?

12 A. The cyberbullying statement is not in here,
13 correct.

14 Q. But while we are here, though, let's see what
15 is here.

16 It says "workplace bullying." Do you see that?

17 A. Yes.

18 Q. The policy is not bullying, the policy is
19 workplace bullying.

20 Let me give you an example. Two flight
21 attendants. You got my example so far?

22 A. Yes.

23 Q. They go to Cabo on vacation. I'm making this
24 up as I go. They go to Cabo on vacation.

25 One of them is walking down an aisle and the

1 other one is coming towards them in an aisle, and
2 one of the flight attendants refuses to get out of
3 the way.

4 You got the example so far?

5 A. Yes.

6 Q. The flight attendant that can't get around that
7 flight attendant files a complaint with Southwest
8 Airlines because it violates the workplace bullying
9 policy.

10 Does it?

11 MR. McKEEBY: Object to the incomplete
12 hypothetical.

13 THE COURT: I will allow him to answer to
14 the extent he can.

15 BY MR. PRYOR:

16 Q. Do you have to look at the policy to see if
17 that violates it?

18 Go ahead. You can answer.

19 A. I'm not sure on that one. I would have to have
20 more details on it.

21 Q. I have given you every detail you need, sir.

22 First of all, let's start with the basic. They
23 are on vacation in Cabo. Are they at the workplace?

24 MR. McKEEBY: Objection, incomplete
25 hypothetical. I don't know if we are talking about

1 a plane or on the beach. Objection.

2 MR. PRYOR: I just said they were in a
3 hallway.

4 These objections to try and protect the
5 witness's lying is inappropriate.

6 THE COURT: Hold on, Counsel.

7 I will strike that.

8 MR. PRYOR: It's absolutely --

9 THE COURT: I will strike that.

10 Okay. Ask the question again. Complete
11 the hypothetical.

12 BY MR. PRYOR:

13 Q. Did I make it clear to you, sir, that they were
14 not at work in my example?

15 A. You didn't state that. So now I know, yes.

16 Q. A hallway on vacation in Cabo is work?

17 A. I don't know which hallway you are talking
18 about.

19 Q. Okay. All right. It's the Hilton.

20 A. Okay.

21 Q. You got it?

22 A. Yes.

23 Q. Is that clear enough for you?

24 Can you answer my question now?

25 A. State the question one more time.

1 Q. Flight attendants are walking down an aisle
2 towards each other at the Hilton. One of them
3 refuses to get out of the way of the other one.

4 The other person then files a complaint with
5 Southwest Airlines.

6 Would that violate the workplace bullying
7 policy?

8 A. One of the statements in here is "blocking
9 one's path," and so that would be considered as
10 possibly violating the workplace bullying hazing
11 policy.

12 Q. So that would violate Southwest policy even
13 though it is not in the workplace.

14 A. We would have to investigate it to know if it
15 violated.

16 Q. What?

17 A. We would have to investigate it to see if it
18 violated or not on that. To be specific.

19 Q. I will try it another way.

20 Does the workplace bullying policy require it
21 to involve the workplace, as stated in the title?

22 A. I would assume it would have to refer to the
23 workplace or something to take place that has to do
24 with work.

25 Q. If you assume it has to take place in the

1 workplace, what was your problem with saying, no,
2 the policy wouldn't apply to the flight attendants
3 in Cabo?

4 A. I don't know your question on that one.

5 Q. You didn't understand, even though I repeated
6 it over and over.

7 So, by the way, knowing whether or not it is in
8 the workplace is important, isn't it? Because it's
9 a workplace bullying policy, right? So that's
10 important? It's right there in the title. Yeah?

11 You can say yes.

12 A. I would have to investigate to know the
13 specifics on it. Yes, it does say "workplace" on
14 it, to answer your question.

15 Q. Is it important to determine a workplace
16 bullying violation to determine whether or not the
17 violation took place in the workplace?

18 A. It would have to do with work, yes.

19 Q. No, not work, workplace. There is a
20 difference.

21 Would it have to involve the workplace as
22 stated in the policy?

23 MR. McKEEBY: Objection, argumentative.

24 THE COURT: I will allow it.

25 THE WITNESS: As stated here, it does,

1 yes.

2 BY MR. PRYOR:

3 Q. And, in fact, this is the policy that you
4 terminated Ms. Carter for, and you told us you
5 didn't even ask if it occurred in the workplace and
6 you didn't care. It didn't matter to you, right?

7 MR. McKEEBY: Objection, compound.

8 THE COURT: Sustained.

9 BY MR. PRYOR:

10 Q. You didn't even ask Ms. Carter because it
11 didn't matter to you if the activity took place in
12 the workplace? True?

13 MR. McKEEBY: Objection, compound.

14 THE COURT: I will overrule that one.

15 BY MR. PRYOR:

16 Q. You testified to it earlier, sir. What are you
17 going to do?

18 A. If it has to do between --

19 MR. GREENFIELD: Objection, your Honor, to
20 the continued sidebar.

21 BY MR. PRYOR:

22 Q. It has to do with what?

23 THE COURT: I will allow you to answer the
24 question.

25

1 BY MR. PRYOR:

2 Q. It has to do with what?

3 A. If it has to do with the workplace, yes.

4 Q. That wasn't my question. Of course it has to
5 do with the workplace.

6 You didn't determine whether or not Ms. Carter
7 was even at the workplace.

8 A. I did not.

9 Q. And it's crucial to firing someone for
10 violating the workplace bullying policy that you
11 fired her for violating the workplace bullying
12 policy, true?

13 MR. McKEEBY: Objection, he's testifying,
14 argumentative.

15 THE COURT: I will allow it.

16 THE WITNESS: I fired her for violation of
17 the workplace hazing and bullying policy, yes.

18 BY MR. PRYOR:

19 Q. Now I have another question for you. I wish I
20 could remember it.

21 All right. I remember what it was.

22 You went through a couple of drafts of the
23 termination letter for Ms. Carter, didn't you?

24 A. I believe so, yes.

25 Q. Yes. And you were running it by those same

1 people that were investigating all of the other
2 recall petition people, didn't you?

3 A. Which people are you referring to?

4 Q. Some of the people on this Exhibit 21. It's
5 sitting in front of you.

6 MR. GREENFIELD: Objection, your Honor,
7 lack of foundation, and calls for --

8 BY MR. PRYOR:

9 Q. You sent it to --

10 MR. GREENFIELD: Excuse me.

11 THE COURT: Hold on. I've got an
12 objection.

13 MR. GREENFIELD: Objection, your Honor,
14 lack of foundation, and then calls for speculation.

15 THE COURT: I will let you back up and set
16 the foundation.

17 MR. PRYOR: Okay. Ask again?

18 THE COURT: Yes.

19 MR. PRYOR: Fix it?

20 BY MR. PRYOR:

21 Q. Sir, did you send drafts of the termination
22 letter of Ms. Carter to anyone on Exhibit 21-E?

23 And I will specifically refer you to Maureen
24 Emlet.

25 A. Yes.

1 Q. You did send it to her, right?

2 A. Yes.

3 Q. And when you sent it to her, you guys were
4 trying to figure out to get Ms. Carter, and you took
5 out the word "workplace" from "bullying," didn't
6 you?

7 A. I don't recall.

8 Q. You wouldn't do that, would you?

9 A. Not intentionally, no.

10 Q. It just so happens that in your draft you took
11 out the word "workplace." That's just an accident,
12 right?

13 A. I don't remember when I made that that I
14 intentionally took it out for any reason.

15 Q. Who told you you wouldn't get away with that
16 and made you put it back in?

17 MR. McKEEBY: Objection, foundation,
18 speculation.

19 BY MR. PRYOR:

20 Q. Anyone?

21 THE COURT: Hold on. There is an
22 objection. I've got to rule on it.

23 I will overrule.

24 He can answer if he has personal
25 knowledge.

1 THE WITNESS: Restate the question.

2 BY MR. PRYOR:

3 Q. Yes.

4 Who told you, you are not going to get away
5 with taking out the word "workplace," you have got
6 to put it back in?

7 A. Nobody.

8 Q. So it's your testimony, if such an error
9 occurred -- we will look at some documents in a
10 bit -- if such an error occurred, you are the one
11 that fixed it, right?

12 A. I don't recognize that there was an error. The
13 first draft was simply something that needed to be
14 proofread.

15 Q. Let's go back to Exhibit 66.

16 Let's see if I can figure out where I was.

17 Oh. Let's go to the fourth paragraph. "While
18 I hold a current position."

19 "While I hold a current position within my
20 union."

21 So once again, you are being told this involves
22 the Union, true?

23 MR. McKEEBY: Objection, the document
24 speaks for itself.

25 MR. PRYOR: He received it and interpreted

1 it.

2 THE COURT: I will allow him to answer.

3 THE WITNESS: It states that she holds a
4 current position in the Union, yes.

5 BY MR. PRYOR:

6 Q. And did you need someone to tell you what that
7 position was?

8 A. For Audrey, no.

9 Q. What was her position?

10 A. President of TWU Local 556.

11 Q. So you knew that, right?

12 A. Yes.

13 Q. She goes on to talk about repeated personal
14 attacks and threats made both via social media and
15 face-to-face.

16 You know from your interview that's not
17 referring to Charlene Carter, true?

18 A. I don't know that.

19 Q. I'm sorry?

20 A. I don't know that.

21 Q. You don't what?

22 A. I don't know that.

23 Q. After you interviewed her, did you find out
24 that she's talking about other purported flight
25 attendants doing that, not Charlene Carter?

1 Charlene Carter didn't face-to-face with her, true?

2 A. But it says "made via social media as well as
3 altercations face-to-face."

4 Q. I wasn't talking about that. I'm asking about
5 the face-to-face now. Did you think I was asking
6 about the others?

7 I said there was no face-to-face. So you don't
8 answer that, you point to something else. Why would
9 you do that, sir, if you are not trying to be
10 evasive?

11 MR. GREENFIELD: Objection. Objection,
12 your Honor, argumentative. He's badgering the
13 witness.

14 THE COURT: Sustained.

15 MR. PRYOR: He's being evasive. I'm
16 entitled to call him on it.

17 THE COURT: You can rephrase it.

18 You can rephrase it.

19 BY MR. PRYOR:

20 Q. Sir, did I ask you about whether or not
21 Ms. Carter is the one that caused an altercation
22 face-to-face?

23 A. No.

24 Q. I didn't ask you that.

25 A. I didn't understand the question when you first

1 said it. That's what I read what it said.

2 And no, Ms. Carter did not do anything
3 face-to-face.

4 Q. Okay. I know -- we all know that. But what
5 I'm trying to figure out is when I asked you that,
6 you answered something else, if you are not trying
7 to be evasive.

8 A. I'm trying --

9 MS. GREEN: Objection, your Honor.

10 THE COURT: Sustained.

11 MR. GREENFIELD: It's still argumentative.

12 MR. McKEEBY: And move to strike.

13 BY MR. PRYOR:

14 Q. So as a matter of fact --

15 MR. McKEEBY: He's repeatedly referring to
16 the witness as evasive, as lying, and that needs to
17 be stricken from the record. He can make those
18 arguments in closing.

19 THE COURT: I will strike the last
20 reference.

21 MR. McKEEBY: Thank you.

22 THE COURT: You may proceed.

23 BY MR. PRYOR:

24 Q. You, in fact, concluded that Ms. Carter made no
25 threat at all to Ms. Stone, true?

1 A. I don't recall that.

2 Q. So Audrey Stone tells you she thinks she's
3 being threatened by Charlene Carter. That's part of
4 her complaint.

5 And you don't recall your conclusion as to
6 whether or not Ms. Stone was threatened, true?

7 A. There were things that were stated on social
8 media that could be perceived as threatening, yes.

9 Q. Did you conclude there was a threat as a result
10 of your investigation?

11 A. I questioned her in the fact-finding as a
12 statement that she made that referred to "can't wait
13 until you get back online." And to me, that seemed
14 like it could have been a veiled threat, so I
15 inquired to her about it.

16 Q. Did you conclude it was a veiled threat?

17 A. Her statement was that she didn't want her to
18 be a president anymore and she wanted her to be a
19 flight attendant.

20 Q. Do you understand my question was what was your
21 conclusion, sir?

22 A. It could have been a threat.

23 Q. Okay. So that's going to be in your report
24 then. If you concluded it could have been a threat,
25 surely that will be in your report, right?

1 A. Which report are you referring to?

2 Q. Your conclusion, your investigation notes, and
3 the termination. Surely you terminated her for
4 threatening an employee.

5 A. "Threatening" is a general term. To what was
6 stated specifically -- I don't know if I can answer
7 your question specifically whether she threatened
8 her.

9 Q. Well, let's try this.

10 The harassment policy at Southwest Airlines
11 prohibits an employee in the workplace from
12 threatening another employee.

13 Do you understand that?

14 A. Yes.

15 Q. And there was a complaint by Ms. Stone. Did
16 you conclude that, in fact, Ms. Carter threatened
17 Ms. Stone and fired her for it?

18 A. There were many things that I terminated her
19 for, not specifically that one that stands out. I
20 didn't put that in the letter specifically.

21 Q. Oh. So you did fire her for that, you just
22 didn't put it in the letter, is that fair?

23 A. No, that's not what I said.

24 Q. Well, then did you conclude it or not, sir?

25 That was part of your investigation, that was

1 part of the charge. Did you fire her for
2 threatening Ms. Stone?

3 A. Not specifically.

4 Q. Generally. Did you fire her for threatening
5 Ms. Stone?

6 A. I fired her for violation of those policies.

7 MR. PRYOR: Objection, nonresponsive.

8 THE WITNESS: So if you are trying to say
9 that I fired her for threatening, I can't say yes
10 because I can't recall specific --

11 BY MR. PRYOR:

12 Q. You can't recall whether or not you concluded
13 she threatened, and you fired her for threatening?
14 Is that what you are telling us?

15 You may or may not have fired Ms. Carter for
16 threatening Ms. Stone?

17 A. That was part of the investigation is what I'm
18 saying, are the comments that were made. They may
19 have been deemed as threatening, but I fired her for
20 violation of those policies.

21 You are asking me if I fired her for
22 threatening.

23 Q. I am.

24 A. So no, not specifically.

25 Q. Well, you keep saying "not specifically," and I

1 say, what does that mean, "not specifically"?

2 Is this just some way not to answer?

3 Did you generally fire her for threatening

4 Ms. Stone --

5 MR. GREENFIELD: Objection --

6 BY MR. PRYOR:

7 Q. -- generally, specifically, whatever phrase you
8 want to use.

9 MR. GREENFIELD: Objection.

10 MR. McKEEBY: Objection, asked and
11 answered.

12 THE COURT: I will allow it.

13 BY MR. PRYOR:

14 Q. Go ahead.

15 A. No.

16 Q. Okay. Wow. Why did it take so long to get
17 there? I asked you four or five times.

18 MR. GREENFIELD: Objection, argumentative.

19 MR. McKEEBY: Objection, your Honor.

20 THE COURT: Sustained.

21 BY MR. PRYOR:

22 Q. Sir, did I ask you that question over and over
23 and over and you would not answer?

24 MR. McKEEBY: Objection, argumentative.

25 MR. GREENFIELD: Same objection, your

1 Honor.

2 THE COURT: Sustained.

3 Counsel, you got your answer. Next
4 question.

5 BY MR. PRYOR:

6 Q. All right. So at least at the end of the day,
7 we know that you did not fire Ms. Carter for
8 threatening Ms. Stone.

9 A. Correct.

10 Q. Let's go to -- by the way, are you on Facebook
11 Messenger?

12 A. No.

13 Q. In 2017, were you on Facebook Messenger?

14 A. No.

15 Q. Do you know how Facebook Messenger works?

16 A. Through the investigation, yes, I learned quite
17 a bit about Facebook.

18 Q. I couldn't understand your answer.

19 A. Yes, through the investigation, I learned quite
20 a bit about Facebook.

21 Q. Okay. Good.

22 So you learned that Facebook Messenger, when
23 you open it up, only plays a video if you ask it to?
24 Or did you not?

25 A. If you ask it to or if you --

1 Q. You have to click on it.

2 A. If you click on it, yes.

3 Q. Okay.

4 So we can agree that a video sent by Facebook
5 manager [sic], when you open it up, you can see the
6 message, you can see whatever the beginning picture
7 of the video is, but that video is not going to play
8 unless you click on it, true?

9 A. I don't recall if it starts right away when you
10 open up Facebook or not. I can't say that
11 specifically.

12 Q. I thought you just told us that Facebook
13 Messenger only plays a video after you click on it.

14 You are now saying something different?

15 That was 20 seconds ago.

16 A. Some videos that I have seen -- I don't know if
17 Facebook is this way -- you open -- you open it up
18 and it starts playing.

19 I don't know if Facebook specifically has to be
20 clicked on. I know that some pictures -- I don't
21 use it enough to know this right offhand.

22 Q. You raised a whole host of issues now.

23 So before when you said it only plays when you
24 click on it, what did you mean?

25 MR. McKEEBY: Objection, mischaracterizes

1 testimony. That's not what he said.

2 THE COURT: I will allow it.

3 THE WITNESS: There are versions that you
4 have to click on, yes.

5 BY MR. PRYOR:

6 Q. Is there a version of Facebook Messenger that
7 the algorithm allows it to play without you clicking
8 on it, to your knowledge?

9 A. I'm saying I do not know that for sure.

10 Q. Well, did you know it in 2017 when you made
11 your decision to terminate Ms. Carter?

12 A. If I recall, those messages needed to be
13 clicked on.

14 Q. Okay. So when you investigated Ms. Carter, one
15 of your conclusions was that video is only going to
16 play if Ms. Stone clicks on it, true?

17 A. True.

18 Q. Do you know whether or not this Facebook page
19 was a Facebook page dedicated to Audrey Stone, TWU?

20 A. I know it was Audrey Stone's Facebook page.
21 That is what I know.

22 Q. I'm sorry?

23 A. I know it is Audrey Stone's Facebook page. I
24 do not know for sure that it was associated with TWU
25 or whatever you just said.

1 Q. When you say you don't know for sure it was
2 Audrey Stone, TWU, does that mean you were aware of
3 it and unsure, or this is new information?

4 A. I don't know the question. I'm not following
5 you on that somehow.

6 Q. Here we go.

7 Did you know at the time you investigated
8 Ms. Carter whether or not the Facebook page she sent
9 the message to was a Facebook page dedicated to
10 Audrey Stone, TWU?

11 Did you know that?

12 A. No.

13 Q. Would it have been important to you?

14 A. No.

15 Q. No. Because it doesn't matter to you if it
16 involves union activity, right?

17 MR. McKEEBY: Object to the form of the
18 question. Again the vagueness.

19 THE COURT: I will allow it.

20 BY MR. PRYOR:

21 Q. It didn't matter.

22 A. It mattered that it was Audrey Stone's Facebook
23 page.

24 Q. Okay. That wasn't my question, was it, sir?

25 Why don't you answer what I ask you instead of

1 what you want to say?

2 MR. GREENFIELD: Objection, your Honor,
3 sidebars.

4 MR. PRYOR: He continuously is not
5 answering the question. I'm entitled to ask him why
6 he's not, your Honor.

7 MR. GREENFIELD: Objection, your Honor,
8 and I move to strike.

9 THE COURT: I will strike that.

10 You can ask the question. You can ask
11 your question.

12 BY MR. PRYOR:

13 Q. Sir, that's not what I asked you.

14 I asked you whether or not it was important to
15 you that it was an Audrey Stone, TWU, Facebook page
16 or not, not if it was important that it was an
17 Audrey Stone Facebook page.

18 You got the difference now? Do you understand?

19 A. No.

20 Q. You don't understand.

21 A. You asked me two questions. I'm answering the
22 first one that said if it mattered to me.

23 Q. If you will just answer what I'm asking, we
24 won't have to go back and forth.

25 MR. McKEEBY: Objection.

1 MR. GREENFIELD: Objection, your Honor.
2 The sidebars continue.

3 THE COURT: Sustained.

4 I don't think he knows the foundation. I
5 think you've got to set the foundation. I don't
6 think he knows the foundation.

7 MR. PRYOR: Okay. May I approach?

8 THE COURT: You may.

9 (Thereupon, the following proceedings were
10 had at sidebar:)

11 MR. PRYOR: If I'm being chastised, I want
12 to know. I'm sorry.

13 THE COURT: I will wait for that.

14 MR. PRYOR: I'll fix it.

15 THE COURT: I don't know that he knows she
16 has two separate Facebook accounts, one listed TWU
17 that is Union, and one that is personal. We covered
18 that with Stone.

19 MR. PRYOR: Fair enough. We did.

20 THE COURT: We haven't covered that with
21 him yet. So he might not know, or he might have
22 forgotten, since 2017.

23 MR. GREENFIELD: Your Honor, continued
24 sidebars. It is after every question, it is after
25 every comment. He will not stop.

1 THE COURT: And that's why I want to get
2 him on to --

3 MR. PRYOR: I shall.

4 THE COURT: Right now we are not
5 communicating together, and that's why I'm not ready
6 to let the record reflect that he's a liar, because
7 I think that there is a miscommunication.

8 MR. PRYOR: Okay. Well, I'm --

9 THE COURT: I'm trying to point out what
10 our communication is. We haven't told him there are
11 two, like a TWU and a personal.

12 If you clear that up, he's probably not
13 going to be evasive. Got it?

14 MR. PRYOR: Yes, sir.

15 (Thereupon, the sidebar was concluded and
16 the following proceedings were held in open
17 court:)

18 THE COURT: Okay. You can set that
19 predicate we talked about.

20 MR. PRYOR: Let's see if we can clear this
21 up.

22 BY MR. PRYOR:

23 Q. The Facebook page that Ms. Carter sent her
24 Facebook messages to, what was the name, the full
25 name on that Facebook page, to your knowledge?

1 A. Audrey Stone.

2 Q. If, in fact, it was Audrey Stone, TWU, would
3 that have impacted your investigation and
4 conclusions?

5 A. No.

6 Q. Okay. So it didn't matter if it was sent to --
7 intended to be sent to her union president, true?

8 A. No.

9 Q. In fact, Ms. Carter told you she was sending it
10 to her union president, that that is why she was
11 sending it, true?

12 A. I don't know if she said that specifically. I
13 don't remember that.

14 Q. When we go through the interview notes that you
15 took, are you going to be surprised to see that?

16 A. I'm saying I just didn't recall that it said
17 that specifically. It may have.

18 Q. Do you know whether or not the message was sent
19 to a public or private Facebook message account?

20 A. It was private.

21 Q. What does that mean?

22 A. That the public can't see it. It's to a
23 specific person.

24 Q. So you know that it was sent to the Union
25 president, true?

1 A. It was sent to Audrey Stone.

2 Q. Audrey Stone was the Union president, true?

3 A. Yes.

4 Q. You know that union activity is being talked
5 about, true?

6 A. Yes.

7 Q. So let me go with my question again.

8 Is it accurate to say that Charlene Carter sent
9 her message to Audrey Stone, who was also the
10 president of the Local 556?

11 A. Yes.

12 Q. And so she sent this message to her president
13 and she sent it in a manner in which only the
14 president could see it, true?

15 A. Yes.

16 Q. And the only way that president could view that
17 message, or at least the video, was to click on it?

18 A. Yes.

19 Q. By the way, she could have made it public,
20 couldn't she?

21 A. The message?

22 Q. When you are sending something to someone's
23 Facebook message account, you get to decide --
24 actually both places -- you certainly have a role in
25 whether or not it is going to be public or private,

1 true?

2 A. I don't know it that well to say that.

3 Q. So if a union member sends a Facebook message
4 to their union president and says, You are a
5 terrible candidate, you suck, to you, that violates
6 Southwest policy, true?

7 A. I wouldn't necessarily say that.

8 Q. Why not? You said it doesn't matter if it went
9 to the Union president.

10 Can employees tell other employees, You suck,
11 and Southwest say, Oh, that's okay?

12 I can be more violent if you want me to. How
13 far do I have to go?

14 A. The egregiousness of the message is taken into
15 consideration.

16 Q. So would "You suck" -- one employee sends a
17 message to another employee saying, "You suck,"
18 would that violate policy?

19 A. If that happened, the employee would have to
20 turn that in and we would conduct an investigation
21 on it.

22 Q. It may or may not be found guilty of policy?

23 A. Correct.

24 Q. And the more severe the language, the more
25 likely it is to be a violation, I would assume?

1 A. You can assume that, yes.

2 Q. So let's go back to my example then.

3 A union member sends a communication to her
4 union president, uses some vile language, "you
5 suck," however much you want to escalate that, and
6 that's a violation of Southwest policy?

7 A. It would be investigated.

8 Q. And depending on how vile the language is, it
9 could be a violation?

10 A. It could be, yes.

11 Q. You terminated Ms. Carter for sending the
12 abortion video and the comments associated with it
13 to Ms. Stone. That's one of the reasons, true?

14 A. Along with others, yes.

15 Q. I said "one of the reasons." You understand
16 what "one" is?

17 A. Yes.

18 Q. Okay. Another reason was the Facebook message
19 post that had the pictures with the anatomically
20 correct vagina hats, true?

21 A. Yes.

22 Q. And the third reason is she posted an abortion
23 video on her public personal Facebook account which
24 you determined to have a nexus to Southwest
25 Airlines, true?

1 A. Yes.

2 Q. Any other reason?

3 A. There were statements made in the letter that
4 referred to our social media policy and bullying and
5 hazing policy, and possibly the harassment policy
6 due to the female genitalia.

7 Q. So what was actually concluded is it was
8 possibly a violation, but it wasn't determined to be
9 a violation, right?

10 MR. McKEEBY: Objection, vague.

11 MR. PRYOR: Just repeating what he said.

12 THE COURT: I will allow it.

13 THE WITNESS: It was determined to be a
14 violation of that.

15 BY MR. PRYOR:

16 Q. It was not determined to be a violation, it was
17 determined that it could have been, but that wasn't
18 the reason for the termination, is that fair?

19 A. Correct, yes.

20 Q. Okay. So let's go back.

21 We've got these three reasons here that but for
22 these three, she would not have been terminated
23 based on the conclusions of that investigation,
24 true?

25 A. That is a possibility.

1 Q. Not a possibility, sir. I'm asking, isn't that
2 true?

3 A. If you take out all three of them, is that the
4 question?

5 Q. Yes.

6 A. Yes, if you take out all three of them, then
7 most likely not terminated.

8 Q. Not even most likely. She wouldn't have been
9 terminated because those were the only conclusions.

10 Why do you have a problem agreeing with that?

11 A. I'm agreeing with it.

12 Q. Okay. "Most likely" and "possibly," that's not
13 agreeing, that's hedging.

14 MR. McKEEBY: Objection.

15 BY MR. PRYOR:

16 Q. So I would appreciate you --

17 MR. GREENFIELD: Objection, your Honor, to
18 the sidebars.

19 THE COURT: Sustained. I will strike it.

20 You can ask your question.

21 BY MR. PRYOR:

22 Q. So these are the three reasons that she was
23 terminated, and without those three, she would not
24 have been terminated, true?

25 A. Yes.

1 Q. Okay.

2 MR. PRYOR: Let's look at exhibit -- I
3 think it is 62. It's actually Exhibit 68.

4 Let me look at the next page and see if
5 there is anything else.

6 Actually, let me talk about the last
7 paragraph of Exhibit 66.

8 BY MR. PRYOR:

9 Q. I can read it.

10 "I am personally pro choice, and to be sent
11 messages that reference me as a murderer couldn't be
12 further from the truth."

13 Do you see that?

14 A. Yes, I do.

15 Q. Did it matter to your investigation whether or
16 not Ms. Stone was pro choice?

17 A. No.

18 Q. Ms. Carter was complaining about the way her
19 union was spending money, true?

20 A. She made that complaint.

21 Q. And she wasn't complaining or it didn't matter
22 whether or not Ms. Stone was pro choice or pro life,
23 true?

24 A. Ms. Carter stated that she did not know what
25 Audrey Stone was.

1 Q. I didn't ask that. I said it didn't matter.
2 You just told us it didn't matter.

3 A. Can you restate the question then?

4 Q. It didn't matter to your investigation whether
5 or not Ms. Stone was pro choice or pro life?

6 A. No.

7 Q. And the reason is because Ms. Carter was
8 complaining about her union, not about Ms. Stone,
9 true? It didn't involve Ms. Stone's personal views.

10 A. From what I remember, she was complaining about
11 both, Ms. Stone and the Union.

12 Q. What was she complaining about Ms. Stone?

13 Oh, her not being a good president of the
14 Union? Yes?

15 A. Among other things.

16 Q. Okay. What other thing?

17 A. She didn't think she was using -- I mean, she
18 thought that the pro march -- or the march in
19 Washington was not used -- the money was used in a
20 wrong way.

21 Q. So once again, every complaint she's making is
22 about her union or the actions of her union
23 president, true? That you are aware of.

24 A. Yes.

25 Q. So it's union activity she's complaining about,

1 not Ms. Stone personally, about the things she's
2 doing as president of the Union, true?

3 MR. McKEEBY: Object to
4 mischaracterization.

5 THE COURT: I will allow it.

6 BY MR. PRYOR:

7 Q. That's what you just told us.

8 A. Say it one more time.

9 I want to make sure I get your questions
10 correct. I'm not intentionally trying to be
11 evasive. I'm just trying to understand the
12 questions when you say them.

13 Q. I'm taking the answer you just gave us, sir,
14 and I will try it again.

15 A. Okay.

16 Q. Isn't it correct that all of Ms. Carter's
17 complaints that you reviewed as part of your
18 investigation involved her complaints about her
19 union or her union president and how she was doing
20 her job?

21 A. You say "all," and not all of them --

22 Q. Every single one is what I'm saying, not an
23 exception at all.

24 If you know of an exception, we are going to
25 talk about it.

1 A. Yes.

2 Q. Okay. What is the exception?

3 A. You just asked me a question if everything
4 was --

5 Q. You're agreeing with my -- okay.

6 A. You are confusing me.

7 Q. I'm asking the positive or negative.

8 Are you agreeing that every single complaint
9 that Ms. Carter made in the messages that she sent
10 to Ms. Stone that were part of your investigation
11 involved her complaints about the Union or the
12 activities of Ms. Stone as the president of the
13 Union? Do you agree with that?

14 A. I would say she was making those complaints
15 about the Union and Audrey Stone personally.

16 Q. Okay. What personal aspect of Ms. Stone,
17 outside of her being president, do you recall her
18 making?

19 Saying "You're corrupt," she's talking about
20 her corruption as Union president.

21 Saying, "I think you are doing a lousy job" is
22 talking about her being Union president.

23 MR. GREENFIELD: Objection.

24 MR. McKEEBY: Objection, your Honor.

25 MR. GREENFIELD: Objection. He's

1 continuing to testify.

2 THE COURT: Sustained.

3 BY MR. PRYOR:

4 Q. Can you recall -- I'll rephrase.

5 Can you recall any part of your investigation
6 that revealed a comment to Ms. Stone whether --
7 about her or the Union that could be separated and
8 say, You know, that's talking about Audrey Stone
9 outside her job as Union president.

10 Can you think of something like that?

11 A. No.

12 Q. So the only thing you know of is complaints
13 about Ms. Stone as Union president, in that context?

14 A. From only the complaints, yes.

15 Q. And you reviewed this stuff Friday?

16 MR. McKEEBY: Objection, vague. I don't
17 know what "this stuff" means.

18 THE COURT: Sure. You can ask it again.
19 Clear it up what you mean by "this stuff."

20 MR. PRYOR: Rephrase.

21 THE COURT: Yes.

22 BY MR. PRYOR:

23 Q. You reviewed the documents relating to your
24 investigation as recently as Friday, right?

25 A. Yes, some of them.

1 Q. And so you've looked at all of this, and so you
2 know it all relates to complaints about Ms. Stone as
3 president or complaints about the Union, right?

4 A. See, I interpret them differently. They all
5 reflect the Union, but they also kind of reflect
6 Ms. Stone also personally.

7 Q. Tell us the ones that somehow are to Ms. Stone
8 unassociated with her role as president.

9 A. I don't know specific ones right now offhand.

10 Q. Okay. Well, when you reviewed it on Friday,
11 you saw some, right?

12 A. I don't remember reviewing that document
13 specifically where she made those complaints.

14 I reviewed a lot of different things. I tried
15 to remember everything.

16 What I'm saying is that I don't remember every
17 detail.

18 Q. We will go through the documents.

19 On the three, on the three categories of
20 documents that you terminated Ms. Carter for and
21 would not have terminated her or taken action
22 otherwise -- you got the question so far?

23 A. Yes.

24 Q. None of those three involved any personal
25 attack on Ms. Stone; they all involved her role as

1 president of the Union, true?

2 A. As I stated, it depends on how you take those
3 accusations. They could be referred to her
4 personally, they could be referred to the Union
5 only. It's how you interpret them.

6 Q. Sir, does Southwest Airlines afford any
7 protection to a union member engaging in
8 union-activity communications, any at all?

9 A. We protect all of our employees.

10 Q. How do you protect an employee communicating
11 with her union president?

12 MR. McKEEBY: Objection, vague.

13 THE COURT: I will allow it.

14 THE WITNESS: It just depends on what is
15 stated. If it's something that is egregious enough
16 that we would look into it and it was brought
17 forward to us.

18 BY MR. PRYOR:

19 Q. So any statement that you see that you believe
20 violates Southwest policy you take action on?

21 A. Yes.

22 Q. There is no protection from any interpretation
23 of Southwest's policy in regard to those actions?

24 MR. McKEEBY: Objection, vague.

25

1 BY MR. PRYOR:

2 Q. They are not protected. There is no special
3 class for union activity. That's crazy, right?

4 MR. McKEEBY: Objection, vague and
5 compound.

6 THE COURT: I will sustain on compound.

7 BY MR. PRYOR:

8 Q. Do you find it ironic that the Union is here
9 fighting against protecting union activity, union
10 communications, and Ms. Carter is not --

11 MR. GREENFIELD: Objection, your Honor,
12 sidebars. He's making argument again. I would ask
13 that you instruct him to stop this.

14 THE COURT: Sustained.

15 MR. PRYOR: I will withdraw it.

16 Okay. Going back to Exhibit 66.

17 All right. Let's go to the next page.
18 Let's see if there is anything else on there.

19 Okay, just scroll down.

20 I know this is not instantaneous to do
21 this. I appreciate it. I just want everything to
22 happen like that.

23 Go to the next page.

24 Okay. I want to read this.

25

1 BY MR. PRYOR:

2 Q. This is from -- this is one of the -- we've
3 been using the phrase "buckets," by the way. I'm
4 going to use this.

5 We've got three buckets. One bucket that you
6 fired her for is this communication, true?

7 A. You have to be more specific. I don't know
8 what "this communication" is. This particular page?

9 Q. I'm showing it to you right now.

10 This is the communication that was sent by
11 Ms. Carter to Ms. Stone on her Facebook Messenger,
12 which we say was Audrey Stone, TWU, but that doesn't
13 matter to you, so we won't bother with that.

14 This is one of the three things you terminated
15 Ms. Carter for, this communication right here.

16 MR. McKEEBY: Objection, mischaracterizes
17 evidence.

18 MR. PRYOR: I'm sorry?

19 THE COURT: I will allow it.

20 THE WITNESS: Yes.

21 BY MR. PRYOR:

22 Q. Okay. And it says, "This is what you supported
23 during your paid leave with others at the Women's
24 March in DC. You are truly despicable in so many
25 ways. By the way, the recall is going to happen."

1 Let's just stop right there.

2 So "the recall is going to happen."

3 Was she referring to recalling Audrey Stone as
4 an individual from something?

5 Is there any way to say, oh, you are talking
6 about Audrey Stone in an individual hat, or is this
7 clearly talking about Audrey Stone with her
8 president of the Union hat on?

9 A. I believe it's president.

10 Q. Okay. So this communication we know was
11 referring to Audrey Stone as president of the Union.
12 Fair enough?

13 A. It refers to the recall of the president, yes.

14 Q. Okay.

15 "Can't wait to see you back online."

16 That's the portion that I think you eventually
17 agreed concluded was not a threat, right?

18 A. I never concluded that completely. It's what
19 she said in the fact-finding.

20 Q. Well, let's state it that way.

21 You did not conclude that that was a threat and
22 you did not fire her because of making a threat. Is
23 that fair?

24 A. Yes.

25 Q. Okay.

1 All right. So let's go to the next page.

2 By the way, would you agree with me that
3 Ms. Carter is complaining about her union and how
4 they are spending her money on something she thinks
5 is murder? Do you agree with that?

6 A. Yes.

7 Q. Do you want to look at it again?

8 MR. GREENFIELD: He answered the question.

9 BY MR. PRYOR:

10 Q. What was of the answer?

11 A. Yes.

12 Q. Okay. Let's look at the next document.

13 And it starts out, "TWU, AFL-CIO, and 556 are
14 supporting this murder."

15 Would you agree this is talking about her
16 complaining about her union?

17 A. Yes.

18 Q. And do you see anything personal to Ms. Stone
19 outside of complaints about the union?

20 A. On that sentence, no.

21 Q. Okay. So this is Bucket 2. This is the second
22 of the three reasons that you terminated Ms. Carter.
23 And this again is specifically involving complaints
24 about the Union or Audrey Stone as Union president,
25 not individually. True?

1 A. Yes.

2 Q. Okay. Then let's go to -- I don't know if it
3 is going to be -- she, by the way -- when she -- you
4 can take that off.

5 When she made her complaint, Ms. Stone, she --
6 that's all she included that she sent you. In that
7 February 22nd, 2017 complaint, that's all she
8 complained about, right?

9 A. At the time, yes.

10 Q. Oh, did she change her complaint?

11 A. We interviewed her.

12 Q. I'm not talking about "we."

13 Did Ms. Stone broaden at any time her
14 complaint? Did she say, Now I want you to terminate
15 her for this document? Anything like that?

16 A. Not that I'm aware of.

17 Q. Forget any words.

18 Did she broaden her complaint in any way or did
19 you broaden it?

20 A. I don't understand the question because
21 you're --

22 Q. Here is the question. We got a third bucket
23 coming up as the reason you terminated her, and that
24 is the anatomically correct hats, right? That's the
25 third bucket.

1 A. Okay.

2 Q. I'm not looking for an okay, I'm looking for an
3 agreement. Is that a yes?

4 A. Yes.

5 Q. Yes.

6 And Ms. Stone was not making a complaint about
7 that communication, nor did she ever, true?

8 A. True, outside of just supplying the pictures of
9 it.

10 Q. There is no "outside of."

11 You asked her to supply all communications with
12 Ms. Carter, true?

13 A. Yes.

14 Q. And included in that communication, a list of
15 that packet of communications, her complying with
16 your request, was that message with that picture,
17 true?

18 A. Yes.

19 Q. And you decided that was a violation, true?

20 A. Our employee relations department did, yes.

21 Q. That's right.

22 Actually, you didn't conclude that, did you,
23 the employee relations department did.

24 A. Yes.

25 Q. And, in fact, you concluded that those first

1 two buckets violated the harassment policy, didn't
2 you?

3 A. What are the buckets again?

4 Q. The buckets are the two videos that show the
5 aborted fetus.

6 A. Just those two. Okay. I didn't know what --

7 Q. You thought that was harassment, but, in fact,
8 employee relations had to tell you, no, it is not,
9 true?

10 A. I only sent it as a possible violation. They
11 determined whether it was or not through the
12 investigation.

13 Q. They told you it was not, true?

14 A. The pictures and video of the unborn fetuses
15 were determined not to be because it didn't violate
16 any of the classes.

17 Q. That's right. Those two videos, employee
18 relations specifically told you that does not
19 violate the harassment policy of Southwest Airlines.
20 Didn't they?

21 A. Yes.

22 Q. And nonetheless, you put in the letter that it
23 possibly violated it, didn't you?

24 A. No. You are missing part of her letter that
25 she sent to me. She did say that it was partially

1 supported as a violation because of the genitalia.

2 Q. Okay. It is your testimony -- they put this in
3 writing, you know. Have you seen it?

4 A. What is in writing?

5 Q. Employee relations responded in writing to you.

6 A. Correct.

7 Q. You reviewed it last week, right?

8 MR. McKEEBY: Object to a question about a
9 document that is not provided to the witness. He's
10 testifying to its content. That's not proper.

11 THE COURT: Sustained.

12 BY MR. PRYOR:

13 Q. Did employee relations tell you it was not a
14 violation of Southwest Airlines's harassment policy?

15 A. They indicated to me on the letter that you are
16 referring to that it was a partial violation of the
17 policy.

18 Q. No, I'm asking about the two videos. I know
19 what they concluded about the hats. We are now
20 talking about the two videos.

21 A. Okay.

22 Q. They told you that did not violate Southwest
23 Airlines's harassment policy, didn't they?

24 A. Those two videos, yes.

25 MR. PRYOR: Let's look at 65, maybe.

1 Go to page -- I want to be clear about the
2 question I was asking.

3 BY MR. PRYOR:

4 Q. What I'm talking about two videos, one of the
5 videos was sent to Audrey Stone, we say TWU,
6 Facebook Messenger, right?

7 A. Yes.

8 Q. And the other video wasn't sent there, it was
9 posted on Charlene Carter's personal Facebook page?

10 A. Yes.

11 Q. Okay. Those are the two buckets, and then this
12 picture right here is the third bucket?

13 A. I'm sorry. To me, it seems like your buckets
14 are changing. So I'm trying to keep your buckets --

15 Q. Three buckets for why you told us you fired
16 her.

17 THE COURT: Hold on.

18 Separation.

19 Okay. Now you can go.

20 BY MR. PRYOR:

21 Q. Do we have to go through this again?

22 I thought we agreed there are three buckets you
23 fired her for. This is the third one.

24 A. My understanding was that the buckets were the
25 hazing and bullying policy, the social media policy,

1 and possibly the harassment policy. I thought those
2 were the three buckets that we started out with.

3 And you were just talking about these within those.

4 Q. I was asking you what you relied upon to find a
5 violation of those policies, and you told me it was
6 those three things. Without those three things you
7 would not have terminated her.

8 Do you recall telling me that?

9 A. Okay.

10 Q. Okay. So those are the three buckets I'm
11 talking about. This is the third one which we
12 haven't shown you yet, but now we are, true?

13 A. Yes.

14 Q. And this once again is talking about her
15 complaints about the Union.

16 "How are you going to code this an LM2? The
17 recall is going to happen."

18 Once again, there is nothing personal in this
19 third bucket either about Ms. Stone, it's
20 complaining about her union, and to the extent you
21 would try and find anything about Ms. Stone, it
22 would be about her activity as the president of that
23 union, although I don't even see that.

24 MR. McKEEBY: Objection, compound.

25 Objection, argumentative.

1 THE COURT: Sustained.

2 MR. GREENFIELD: Objection, your Honor.

3 He continues to testify. I would ask you to --

4 THE COURT: You can break it up and reask
5 the question.

6 BY MR. PRYOR:

7 Q. This third bucket relates exclusively to
8 Ms. Carter's complaint about her union, true?

9 A. Yes.

10 MR. PRYOR: Let's scroll on until you get
11 to get APP 88. See if you recognize this.

12 It might help if you had a copy of this.

13 Can I have 65?

14 THE WITNESS: It's pretty large on here.

15 BY MR. PRYOR:

16 Q. I'm sorry?

17 A. It's pretty large on here as far as seeing it.

18 Q. It's what?

19 A. I can see it.

20 Q. Well, I didn't know if you wanted to see the
21 whole thing.

22 This was part of the communications that you
23 looked at?

24 A. It was given to me, yes. Yes.

25 Q. Okay. And did you fire her for this

1 communication?

2 A. No.

3 Q. Did you take any action at all against her or
4 consider this as part of the reason for terminating
5 her?

6 A. No.

7 Q. Do you believe it's appropriate for a union
8 member to talk to her union president about her
9 complaints about Planned Parenthood in this context?
10 It is okay for her to do that, right?

11 A. To complain to the union about Planned
12 Parenthood, is that the question you are asking me?

13 Q. Yes. So what Ms. Carter is doing is she is
14 complaining about that they went to this march
15 sponsored by Planned Parenthood.

16 You knew that. She told you that.

17 A. I didn't know that it was supported by Planned
18 Parenthood. She made the statement in the meeting,
19 but everything I saw was that it was a women's march
20 supporting women's rights.

21 Q. You didn't know that it was sponsored by
22 Planned Parenthood?

23 A. Ms. Carter said that in the fact-finding.

24 Q. That's what I'm asking. You knew her complaint
25 was it was a march supported by Planned Parenthood,

1 true?

2 A. Yes.

3 Q. And she wanted to communicate her concerns
4 about Planned Parenthood to her union, true?

5 A. True.

6 Q. And are you complaining in any way that she did
7 that by, for instance, this document right here?

8 A. No.

9 Q. Do you know what eugenics is?

10 A. No.

11 Q. You didn't look into that?

12 MR. McKEEBY: Asked and answered.

13 Objection.

14 BY MR. PRYOR:

15 Q. Did you look into --

16 THE COURT: Sustained.

17 BY MR. PRYOR:

18 Q. -- whether or not eugenics was raised as an
19 issue between Ms. Carter and her union about Planned
20 Parenthood?

21 MR. GREENFIELD: Objection, your Honor,
22 relevance, and 403.

23 THE COURT: I will allow the answer to the
24 question.

25 THE WITNESS: No.

1 BY MR. PRYOR:

2 Q. And you don't know what it is?

3 A. No.

4 MR. PRYOR: Let's look at Exhibit 74.

5 BY MR. PRYOR:

6 Q. Okay. Do you recognize --

7 MR. PRYOR: Is it in evidence?

8 THE COURT: It's not.

9 MR. PRYOR: I offer Exhibit 74.

10 THE COURT: Okay. 74. Any objections on
11 Exhibit 74?

12 MR. GREENFIELD: One moment, your Honor.

13 THE COURT: Yes.

14 MR. GREENFIELD: No.

15 MR. McKEEBY: No objection from Southwest.

16 MR. GREENFIELD: No objections.

17 THE COURT: Okay. 74 is in evidence. We
18 will publish.

19 (The referred-to document was admitted
20 into evidence as Plaintiff's Exhibit 74.)

21 BY MR. PRYOR:

22 Q. Do you recognize this document?

23 A. Yes.

24 Q. I'm sorry?

25 A. Yes.

1 Q. Did you review this document last week?

2 A. Yes.

3 Q. So you were not only familiar with it at the
4 time, you have refreshed your recollection as we sit
5 here, right?

6 A. Yes.

7 Q. And you sent this document to Meggan Jones and
8 Dave Kissman?

9 A. And --

10 Q. Yes?

11 A. Yes.

12 Q. And Meggan Jones is an attorney for Southwest
13 Airlines.

14 A. No.

15 Q. What is she?

16 A. She, at the time, was my assistant base
17 manager.

18 Q. What?

19 A. At the time she was my assistant base manager.

20 Q. Okay. I thought there was a lawyer on here
21 somewhere. Was there a lawyer involved in the
22 investigation who sat in on the interviews? No
23 lawyers?

24 A. No.

25 Q. Who is Dave Kissman?

1 A. He's my immediate leader.

2 Q. And you sent this to employee relations, right?

3 A. Correct.

4 Q. And employee relations' job, among other
5 things, I assume, is to determine whether or not
6 there are any protected rights that should be looked
7 at after any investigation, true?

8 A. Yes.

9 Q. And, in fact, you sent this to them and said,
10 Let me know your thoughts on protected categories.

11 A. Yes.

12 Q. And we will get to what they told you in a
13 second, but from your knowledge, are religious
14 beliefs a protected category?

15 A. Yes.

16 Q. To your knowledge, is political speech a
17 protected category?

18 A. I don't know that.

19 Q. To your knowledge, is union activity a
20 protected category?

21 A. I don't know that.

22 Q. And so when you spoke to employee relations,
23 what did they tell you about protected categories?

24 A. In this particular case or in general?

25 Q. In this particular case.

1 A. After the investigation, you mean in the letter
2 that was sent to me?

3 Q. They didn't talk to you about protected
4 categories until the investigation was over?

5 A. No. I'm trying to figure out when, what place
6 in time you are talking about did they talk to me --

7 Q. Every moment -- every moment from the time you
8 sent this email to right now.

9 A. Yes, they've talked to me about protected
10 categories.

11 Q. When did they talk to you?

12 A. I don't recall dates.

13 Q. Did they talk to you before the investigation
14 was concluded?

15 A. They talked to me about this case and if it
16 violated or not. I don't remember if they talked to
17 me about protected categories during this
18 investigation.

19 Q. Okay. So to your recollection, the person that
20 made the termination decision and the person in
21 charge of this investigation, you have no
22 recollection of employee relations at Southwest
23 Airlines ever telling you anything about protected
24 categories prior to your termination decision, true?

25 MR. McKEEBY: Objection, asked and

1 answered.

2 THE COURT: I will allow it.

3 THE WITNESS: They have talked to me about
4 that in the past if you are talking about all
5 encumbrance of when they may have talked to me.

6 But I'm trying to determine if it's a
7 specific moment when you are asking me if they
8 talked to me about protected categories, because
9 that is just general --

10 BY MR. PRYOR:

11 Q. Sir, I made it specific to Ms. Carter.

12 You asked me, in general or this case. I said
13 this case.

14 Now you are going back to general.

15 Do you want to watch my question? Here we go.

16 You ready?

17 A. Yes.

18 Q. On February 23rd, you asked, specifically about
19 this investigation, Hey, employee relations. Let me
20 know your thoughts about protected categories.

21 And they never spoke to you specifically about
22 this case and protected categories prior to you
23 making your termination decision, true?

24 A. No --

25 Q. Okay.

1 A. -- they did talk to me.

2 Q. When did they talk to you about Ms. Carter or
3 Ms. Stone's protected categories?

4 A. While we were doing the investigation, employee
5 relations partnered with me on this investigation
6 and we did the interviews together.

7 Q. I know you did. Tell me about protected -- I
8 know they were involved. That wasn't my question.

9 What did they tell you about protected
10 categories?

11 A. They told me that the genitalia pictures --

12 Q. That what?

13 A. The genitalia pictures of the faces did violate
14 the protected category of sexual -- if that's what
15 you are asking.

16 Q. Did they call sexual harassment a protected
17 category? Is that what they told you?

18 A. Sexual harassment?

19 Q. I thought you just said that. Sexual
20 harassment.

21 A. Harassment, sexual harassment in the harassment
22 policy.

23 Q. Okay. And they told you that's a protected
24 category, sexual harassment?

25 A. They said it violated that, yes.

1 Q. Violated a policy, right?

2 A. Correct.

3 Q. Okay. I'm asking about protected categories.

4 What did they tell you about protected

5 categories?

6 A. I would have to have the document in front of

7 me. I don't remember specifically.

8 Q. You don't recall generally, do you?

9 A. I don't recall generally what?

10 Q. Well, you are saying specifically, and I'm

11 making sure that you are not recalling something

12 generally.

13 Did they generally tell you about a protected

14 category?

15 A. Yes.

16 Q. What did they tell you?

17 A. They told me that it violated one of the

18 protected categories.

19 Q. The genitalia picture violated a protected

20 category, true?

21 A. Yes.

22 Q. Did they tell you about any other protected

23 categories that you should consider as part of your

24 investigation prior to making your termination

25 decision?

1 A. Not that I recall.

2 Q. You considered no other protected categories
3 other than genitalia and how it might violate a
4 sexual harassment policy; that's the only protected
5 category you considered in your investigation prior
6 to making your termination decision?

7 A. Yes.

8 Q. So it is fair to say that there was no
9 consideration given to Ms. Carter's religious
10 beliefs in regard to your investigation or
11 termination decision, true?

12 A. True.

13 Q. And it's also fair to say that no consideration
14 was given to her union activity in regard to your
15 termination decision or investigation?

16 A. Yes.

17 MR. PRYOR: Let's see. 82.

18 BY MR. PRYOR:

19 Q. So let's look at Exhibit 76. I think this
20 confirms your recollection. It's on the screen.

21 So the email at the top, just below it is the
22 one that you sent to employee relations saying, Let
23 me know your thoughts on protected categories.

24 And above it is their response, true?

25 A. Yes.

1 Q. And when they responded to your inquiry about
2 protected categories, they don't say anything about
3 protected categories, do they?

4 A. No.

5 MR. PRYOR: 82.

6 BY MR. PRYOR:

7 Q. Let's look at Exhibit 82. That's
8 February 23rd. Trying to keep a little timeline
9 here.

10 Let's look at Exhibit 82.

11 THE COURT: Counsel, we have been on the
12 record for about an hour 45. Are you okay if we
13 break now a little early for lunch?

14 MR. PRYOR: Are you asking if this is a
15 good time for lunch?

16 THE COURT: Yes.

17 MR. PRYOR: My back is killing me. I
18 would love to sit down.

19 THE COURT: Okay. So before we bring up
20 82, we will take our lunch break a little early in
21 light of the early morning break.

22 So the same three instructions. You can
23 only talk to yourselves and court staff, just not
24 about the case. Don't talk to anyone else and don't
25 do any research or anything like that on the case.

1 Keep an open mind.

2 All rise for the jury.

3 See you back here at 12:45.

4 (The jurors exited the courtroom.)

5 THE COURT: Mr. Schneider, you can leave
6 the stand. You just can't talk to anyone about the
7 case. Thank you, sir.

8 (The witness exited the courtroom.)

9 THE COURT: Okay. So can I just say one
10 thing? Housekeeping-wise, I know we are to 82. I'm
11 not going to ask for objections on that, we can do
12 that right before lunch.

13 But also, 76, we never unmuted the jury
14 screens because 76 is not in evidence. So if you
15 want to bring 76 in, then housekeeping-wise, think
16 about that. Because 76 is not in and the jury did
17 not see 76.

18 MR. PRYOR: We ask --

19 THE COURT: Okay. Do y'all know 76?

20 MR. PRYOR: I can pop it back up.

21 THE COURT: Let's pop it back up, and I'm
22 going to look in my notes for anything on 76.

23 I don't have a written objection on 76.

24 MR. McKEEBY: No objection to 76.

25 THE COURT: Any objection from the Union

1 on 76?

2 MR. GREENFIELD: No, your Honor.

3 THE COURT: So what I will do is when we
4 come back on the record, can you move for admission
5 when the jury is here on 76.

6 I will show it to them, and you can say, I
7 talked to the witness about this, but you didn't see
8 it because it wasn't in evidence then. It is now.
9 Here is the document he saw that you are now seeing.

10 And then we will move back to 82.

11 Sound good?

12 Any other issues that we have to talk about?

13 MR. GREENFIELD: If I may sidebar, your
14 Honor.

15 THE COURT: Sidebar here?

16 MR. GREENFIELD: Yes.

17 (Thereupon, the following proceedings were
18 had at sidebar:)

19 MR. GREENFIELD: Your Honor, the continued
20 sidebars and argumentative nature of his questions,
21 I'm personally aghast at the lack of courtroom
22 decorum.

23 I do not believe he's complying with the
24 rules of professionalism or with Dondi, which is a
25 requirement of this Court. I don't even believe

1 he's even read the case, which is a requirement of
2 this Court.

3 I would just like to ask you to instruct
4 him to stop.

5 THE COURT: Response.

6 MR. PRYOR: Your Honor, in response, you
7 have sustained a few objections, but many you have
8 not.

9 This is a witness, in my opinion, that is
10 trying not to answer the questions. And so, yeah,
11 there is a little hand-to-hand combat.

12 They've over-objected and raised --
13 they've been -- their objections have been overruled
14 as much as they have been sustained. So I don't
15 think we are into that category.

16 And I certainly know what Dondi is and I'm
17 not violating it.

18 They can object, the Court can rule. If
19 they want to make a motion, make a motion. But I
20 don't think there's anything like that --

21 MR. GREENFIELD: I'm talking about the
22 repeated sidebars and argumentative comments that
23 are clearly not appropriate.

24 THE COURT: So I will say this. I think
25 we do need to dial down the rhetoric.

1 MR. PRYOR: I will.

2 THE COURT: On specific objections to
3 questions, I'm giving all of you leeway, but that is
4 the one area we do need to dial down.

5 I think part of the issue is there is
6 oftentimes a lack of communication, and I think what
7 you're perceiving from the witness as lying --

8 MR. PRYOR: You are right.

9 THE COURT: -- and evasion is he's not a
10 lawyer, and he does not have the same familiarity
11 with this case and the rules of evidence that we now
12 have.

13 When I was in private practice in the
14 appellate section of the AG's office, we would
15 always call our first mood the mood of rage because
16 you are angry that anyone can see the case
17 differently than you. We would rip our panelists'
18 heads off for even asking a question.

19 And I think you are all at the point of
20 rage because you are so steeped in the case. So
21 that's why we would have a second mood. We would
22 call that the mood of reason. We now understand why
23 you might have a lack of understanding of what I'm
24 saying, let me clarify that for you.

25 So I would like us to all get this

1 afternoon to the point of reason rather than the
2 point of rage that we are at now.

3 Does that make sense?

4 MR. PRYOR: Yes. And there is a specific
5 example, when I came up and you told me we were
6 talking past each other, and you were exactly right.

7 And I will, as counsel says -- he used
8 dial back. I will. And, however, there are times
9 when the witness -- I have to fight with him. But I
10 certainly acknowledge --

11 THE COURT: I will agree to do that.

12 I will say this afternoon there might be
13 times where he will evade you intentionally, but I
14 don't think he's doing it all the time.

15 So I think we need to give him the benefit
16 of the doubt, not have a lawyer characterizing him
17 as a liar or evasive. But if it really counts and
18 you can see and everyone knows he's evading you --

19 MR. PRYOR: Okay. I will make --

20 MR. GREENFIELD: And if I may make it
21 abundantly clear, Mr. Pryor can interrogate the
22 witness in whatever form he wants to. If he wants
23 to dial it up, fine. I don't care. That's not my
24 issue. My issue is the repeated use of sidebars.
25 He won't stop.

1 THE COURT: Understood. Sidebars should
2 be --

3 MR. PRYOR: I hear counsel's comments. I
4 have seen some sustained and some overruled. And I
5 will take into consideration counsel's comments and
6 the Court's.

7 MR. GREENFIELD: I'm not talking about the
8 argumentative objections.

9 MR. PRYOR: I appreciate that.

10 MR. GREENFIELD: It has been happening for
11 three days, Mr. Pryor.

12 MR. PRYOR: All right. So I have a
13 sidebar issue as well. It doesn't matter if it's on
14 the record or not.

15 I want the Court to know that we are
16 mindful that you gave us three more hours and we are
17 going to make good use of that.

18 We have made a decision to spend more time
19 with Mr. Schneider, and we are either cutting or
20 shortening substantially other witnesses.

21 I didn't want the Court to think, wow,
22 we've got three more hours. We are going crazy.

23 We are doing that, and we will still leave
24 time for our cross and closing. And I think there
25 is every chance we will close the evidence on

1 Monday, if not Monday morning. It depends on today.
2 But that's --

3 THE COURT: Can I ask, are there any of
4 the deposition page/line designation objections we
5 are working that we shouldn't?

6 We are going to keep working on all of
7 them --

8 MR. PRYOR: That's a really good question.

9 THE COURT: How about tell me -- at the
10 end of the lunch break, tell me if there are any --

11 MR. PRYOR: We will.

12 THE COURT: -- you say, We are just not
13 going to pursue this written deposition coming in.

14 And I know you are saving back some time
15 for Nevarez who we haven't --

16 MR. PRYOR: That's right.

17 MR. McKEEBY: And question as to witnesses
18 today, who do I need to have here?

19 MR. PRYOR: As we've talked about, we
20 anticipate calling Ms. Lacore after this witness.

21 MR. McKEEBY: Do I need to have any other
22 witness here other than Ms. Lacore?

23 MR. PRYOR: You do not.

24 THE COURT: What about the Union?

25 MR. PRYOR: It means that we either think

1 we're going to finish with Lacore or put on video
2 depositions or put on Ms. Carter.

3 MR. GILLIAM: And to answer your question,
4 probably --

5 MR. PRYOR: So I'm trying to be very open
6 about it and appreciative of the time we got. I
7 didn't want you to think we're going crazy.

8 THE COURT: Is there a video depo you're
9 contemplating today that we don't have rulings back
10 to you on?

11 MR. GILLIAM: I will have to look at my
12 notes. Kleburne is the one we are contemplating.

13 THE COURT: Okay.

14 MR. GILLIAM: I can't remember if --

15 MR. PRYOR: So, no, we are good.

16 THE COURT: Got it.

17 Okay. We will see y'all after lunch.

18 (Thereupon, the sidebar was concluded and
19 the following proceedings were held in open
20 court:)

21 THE COURT: Now we are in recess.

22 THE COURT SECURITY OFFICER: All rise.

23 (Recess.)

24 THE COURT SECURITY OFFICER: All rise.

25 THE COURT: Anything we need to talk

1 about? I know we're going to do housekeeping on
2 what, 76? 76. And then you are going to come back
3 to 82. So you will move for the admission of 76, I
4 will enter it, then you will show it to the jury,
5 and then we will move on to 82. Got it?

6 Okay. Let's bring them in.

7 (The jurors entered the courtroom.)

8 Okay. You can be seated.

9 Mr. Pryor, you can continue.

10 MR. PRYOR: Thank you, your Honor. At
11 this time, we offer into evidence Exhibit 76, and
12 ask it that be displayed to the jury.

13 THE COURT: Okay. Seventy-six, I have
14 considered objections. It is coming in.
15 Seventy-six is admitted into evidence.

16 And I will just say, this is a document
17 that the witness saw earlier but y'all didn't see.
18 So we are going to put it on the screen so you can
19 see what the witness saw earlier.

20 MR. PRYOR: And my apologies for not
21 getting that into evidence and on the screen timely.

22 BY MR. PRYOR:

23 Q. Sir, did you make any inquiries into whether
24 Charlene Carter needed a religious accommodation?

25 A. No.

1 Q. Has anyone at Southwest Airlines ever told you
2 that part of your job is to consider whether or not
3 a person would need a religious accommodation?

4 A. No.

5 Q. To your knowledge, was this incident involving
6 Ms. Carter reported to ACT?

7 A. No, it was not by me.

8 Q. And what is ACT?

9 A. The Accommodations and Career Transition Team
10 for Southwest Airlines.

11 Q. And that is the team that, if there is an
12 accommodation consideration to be made, that is the
13 team that makes it?

14 A. Correct. Ms. Carter would have to take it to
15 them and they would determine if their accommodation
16 was approved.

17 Q. And it is your testimony that Ms. Carter has to
18 raise that issue with ACT, true?

19 A. Yes.

20 Q. And did Ms. Carter's Facebook post that you
21 reviewed cause Southwest Airlines any financial harm
22 before she was terminated?

23 A. Not that I'm aware of.

24 Q. Did Southwest Airlines -- let's start with you.
25 Did you ever discuss with Ms. Carter whether

1 she would be willing to post a disclaimer on her
2 Facebook page that her posts do not necessarily
3 represent the views of Southwest Airlines?

4 A. No.

5 Q. Could you have done that?

6 A. I haven't done that in the past.

7 Q. I didn't ask if you had. But that is something
8 you could have considered or done because you were
9 the one in charge?

10 Right?

11 A. I don't know the answer to that question
12 because I have never had to do that.

13 Q. So there were limitations that Southwest
14 Airlines placed on you in terms of what you could do
15 to Ms. Carter?

16 A. I am just saying that I have never done it
17 before.

18 Q. I understand that. You have told us that.

19 I'm asking you, that is something that you
20 could have considered and could have done if you
21 thought it was appropriate?

22 A. I would have to take it through our legal team
23 to make sure.

24 Q. Okay.

25 And if your legal team told you you could do

1 it, that would be something, then, that you would
2 consider?

3 A. Yes.

4 Q. But you didn't do that; you didn't consider it,
5 right?

6 A. Correct.

7 Q. Did you or anyone to your knowledge at
8 Southwest Airlines ever ask Ms. Carter if she would
9 remove Facebook posts that it considered to be a
10 nexus to the workplace?

11 A. Not that I'm aware of.

12 Q. And that also is something that you could have
13 done if you had chosen to, true?

14 A. Yes.

15 Q. If you wanted to accommodate her union
16 activities or religious beliefs, you could have
17 considered that, right?

18 MR. McKEEBY: Objection to the argument.

19 THE COURT: I'll allow it.

20 THE WITNESS: Can you repeat the question?

21 BY MR. PRYOR:

22 Q. Yes. If you wanted to take into consideration
23 Ms. Carter's religious beliefs or union activities
24 that were being complained about, that is something
25 you could have considered doing, just asking to

1 remove the nexus from her Facebook page?

2 MR. McKEEBY: Objection, foundation.

3 THE COURT: I'll allow it.

4 THE WITNESS: I could have.

5 BY MR. PRYOR:

6 Q. And to your knowledge -- first of all, you know
7 you didn't, you did not do that?

8 A. No, I did not.

9 Q. And to your knowledge, no one else at Southwest
10 Airlines did that, correct?

11 A. No. Not during the short time that the
12 investigation took place, because she was terminated
13 after that. And there wasn't time.

14 Q. And in fact, the action that was taken was
15 action that you took; it was your decision and your
16 action, not anyone else's in that regard, true?

17 A. In regard to the termination?

18 Q. The termination, and the manner in which you
19 did it?

20 A. Yes.

21 Q. Did you have any communications with Naomi
22 Hudson before contacting Audrey Stone about her
23 complaint?

24 A. No.

25 MR. PRYOR: Okay. Let's go to Exhibit 82.

1 THE COURT: Okay. Jury screens are muted.

2 MR. PRYOR: Actually, I don't need

3 Exhibit 82. You just answered that.

4 Let's go to Exhibit 89. I move for the
5 admission of Exhibit 89.

6 THE COURT: Eighty-nine. Any objections
7 on 89?

8 MR. McKEEBY: No objection.

9 THE COURT: Any from the union?

10 MR. GREENFIELD: No objection, your Honor.

11 THE COURT: Okay. Eighty-nine is in. We
12 will publish.

13 (The referred-to document was admitted in
14 Evidence as Trial Exhibit 89.)

15 BY MR. PRYOR:

16 Q. Okay. Mr. Schneider, do you recognize
17 Exhibit 89 as your notes of the interview from your
18 fact-finding team of Audrey Stone?

19 A. Yes.

20 Q. Let's go to the second page. DG, who is DG?

21 A. Denise Guttierrez.

22 Q. Okay. And about a third of the way down the
23 page, it says, Great, tell me first the individual
24 that sent the message.

25 Do you see where I'm at?

1 A. Yes.

2 Q. I'm going to read part of that, and feel free
3 to read it all.

4 It is a flight attendant in Denver. Since 2008
5 when I was on the board, she has not been union
6 friendly. It goes on to say, in 2013, when I came
7 in as president, through Facebook, she has sent me
8 various messages. I have ignored them and have not
9 had a relationship with her. She is very
10 anti-union.

11 Correct?

12 A. That is what it states, yes.

13 Q. Do you recall that your notes are consistent
14 with what you recall actually happening?

15 A. Are you asking if my notes are accurate, is
16 that what you are asking?

17 Q. To the best of your ability, you were writing
18 down what was said?

19 A. Yes.

20 Q. And what we know from this answer is that
21 communications between Ms. Carter and Ms. Stone
22 began after Ms. Stone became president of the Union,
23 right?

24 A. Yes. It says 2008, and then in 2013, when she
25 became president.

1 Q. So is that a yes?

2 A. Yes.

3 Q. And you know that she's telling you that she
4 believes Ms. Carter's very anti-union?

5 A. That is the statement she made, yes.

6 Q. And did you actually find out from Ms. Carter
7 that she's not anti-union, she was just anti this
8 administration of Local 556 under Ms. Stone?

9 A. To some extent, yes. The Union in general,
10 too, though.

11 Q. Then down below that, it says, What do you
12 think would cause her to send the message? Her
13 answer was, I have never had a conversation with
14 her, she's anti-union.

15 Once again, this answer is emphasizing this
16 relates to the Union, right?

17 A. It states she's anti-union, yes.

18 Q. Well, why would she send you the message?
19 She's telling you in the answer, is because she's
20 anti-union. That is telling you it is activity
21 related to the Union, right?

22 MR. GREENFIELD: Objection, lack of
23 foundation, calls for speculation.

24 THE COURT: I'll allow him to answer if he
25 has personal knowledge.

1 THE WITNESS: I don't have personal
2 knowledge why she would do that.

3 BY MR. PRYOR:

4 Q. You don't have an understanding of what she
5 told you when she said, She sent me the message
6 because she's anti-union? You didn't understand
7 that?

8 MR. GREENFIELD: Objection, misreading the
9 document.

10 THE COURT: Sustained.

11 BY MR. PRYOR:

12 Q. Why do you think -- what do you think would
13 cause her to send the message? Part of the answer
14 is, "She's anti-union, right," right?

15 MR. McKEEBY: Objection, foundation.

16 THE COURT: I'll allow it.

17 THE WITNESS: That is what it states here,
18 yes. That's what she said.

19 BY MR. PRYOR:

20 Q. Did you disagree with what she told you?

21 A. I didn't agree or disagree.

22 Q. So you didn't consider this at all?

23 A. The anti-union part? I considered it. But I
24 didn't at that time agree or disagree with her.

25 Q. She has sent messages in the past that I have

1 ignored.

2 Do you see that?

3 A. Yes.

4 Q. Did you investigate which messages she reviewed
5 and which ones she did not?

6 A. Only the ones that she sent to us.

7 Q. Okay. And of those, did you go through with
8 her and ask her which ones she read and which ones
9 she did not?

10 A. No.

11 Q. It says, I was on a ski trip with people from
12 Denver last Wednesday. I asked them not to tag or
13 post anything on Facebook. I went on Facebook to
14 check and there was a message from her. I opened
15 the message and it had a video that I couldn't look
16 at because I was in the Denver airport. I read the
17 text and closed it out. I couldn't look at the
18 video in the airport.

19 Did I read that right?

20 A. That is what it states, yes.

21 Q. And once again, you have written down what you
22 believe accurately reflects what you were told?

23 A. Correct.

24 Q. And what you were told is, not that Ms. Stone
25 opened up the video in the airport and started

1 crying when she read the video and missed a plane,
2 but what you were told was, she could not open the
3 video in the airport and all she could do was read
4 the message associated with the video, correct?

5 A. Yeah. Just -- it states that she was in the
6 Denver airport and couldn't open it. It doesn't
7 state why. I don't know.

8 Q. She read the message. She knew what it was
9 about and she didn't watch the video at that time.
10 Later, she made the conscious decision to go in and
11 view the video, knowing what it was going to be
12 about?

13 MR. McKEEBY: Objection, foundation,
14 speculation.

15 THE COURT: I will overrule.

16 You can answer if you have personal
17 knowledge.

18 MR. GREENFIELD: Then, objection, I would
19 like to, on top of that, then, make a hearsay
20 objection.

21 THE COURT: I will overrule that.

22 THE WITNESS: I don't know what she was
23 thinking, what she thought the video was.

24 BY MR. PRYOR:

25 Q. Fair enough.

1 You know that she didn't view it until after
2 she read the message associated with it and after
3 she left the airport, some time later, she then
4 decided to view the video, based on what she told
5 you?

6 A. It doesn't state that specifically here.

7 Q. Well, it says, I couldn't look at the video in
8 the airport.

9 Did she tell you at some point she viewed the
10 video?

11 MR. GREENFIELD: Objection, your Honor.

12 May we approach?

13 THE COURT: Yes.

14 (Thereupon, the following proceedings were
15 had at sidebar:)

16 MR. GREENFIELD: I think now we are
17 crossing clearly over to hearsay. She's saying
18 based on what she told you --

19 THE COURT: Party opponent?

20 MR. GREENFIELD: Audrey Stone?

21 THE COURT: Sure. She's the union
22 president, the Union's a party, party opponent.

23 MR. PRYOR: Absolutely. Certainly at the
24 time.

25 THE COURT: Sure. And effect on him. I

1 mean, I think there are two ways around --

2 MR. PRYOR: But no, it is also because
3 he's -- the investigator made the decision, his
4 knowledge.

5 THE COURT: Sure. It is her statement's
6 impression on him. So, I mean, I think there are
7 two ways for this.

8 (Thereupon, the sidebar was concluded and
9 the following proceedings were held in open
10 court:)

11 THE COURT: Okay. You can ask.

12 BY MR. PRYOR:

13 Q. Do you remember the question?

14 A. No, sir.

15 Q. Okay.

16 So based on what you wrote, and what you
17 recall, based on what you wrote or however you
18 recall, you know that she didn't view the video at
19 the airport. She reviewed it somewhere else because
20 she couldn't view it at the airport, true?

21 A. I don't recall her saying that she viewed it
22 after -- I don't know when that was.

23 Q. You don't know that she ever viewed the video?
24 She didn't tell you she viewed it?

25 A. I don't recall whether she said it or not.

1 Q. One of the things you know for sure is that she
2 told you when she got -- what she refers to here as
3 the text and closed it out, I couldn't look at the
4 video at the airport. True?

5 A. Yes.

6 Q. And she told you that she was on a ski trip
7 with some people from Denver at the time. True?

8 A. Yes.

9 Q. That is different than saying, I was going on a
10 union trip to Baltimore, isn't it?

11 A. It is different, yes.

12 Q. So on the next page, she talks about, towards
13 the bottom, that -- What is your interpretation,
14 Can't wait until you get back on line. She says,
15 I'm full-time for the Union, I know there has been a
16 recall to try to get the majority of the board
17 ousted.

18 So you were aware of the recall effort, true?

19 A. Yes. I don't see that on my screen, though.
20 It is not down that far.

21 MR. PRYOR: I'm sorry, I can bring you
22 this page. Do you want to accept my representation
23 or I can bring it to you?

24 THE WITNESS: Either way.
25

1 BY MR. PRYOR:

2 Q. You are okay with that?

3 A. Yes.

4 Q. All right. Let's see if we can find -- it is
5 the next page.

6 Oh, here it is, it is at the bottom here. Do
7 you see where it says, I know there has been a
8 recall to try to get the majority of the board
9 ousted? It is the last one.

10 A. Yes, I see it.

11 Q. All right. Let's go to the next page.

12 So, she was asked by DG, what do you want
13 Southwest to do?

14 That is the next page.

15 Towards the -- again, the top third, do you see
16 where it says, "what do you want Southwest to do?"

17 A. Yes.

18 Q. And it says, make Charlene and Chris Click
19 stop. Tell those flight attendants not to talk
20 about me or the Union president trying to get flight
21 attendants fired. They need to protect me.

22 Is that what she said, to the best of your
23 recollection?

24 A. Yes.

25 Q. And she's talking about protecting herself from

1 these flight attendants, true? Getting herself
2 protected from these flight attendants?

3 A. It states that -- it seems that she's --

4 Q. There's nothing in here about what I really
5 want is to protect other flight attendants, right?

6 MR. McKEEBY: He didn't allow the witness
7 to finish.

8 THE COURT: Yes, you can finish your
9 answer.

10 MR. PRYOR: Oh, I'm sorry. Were you not
11 finished?

12 A. No.

13 BY MR. PRYOR:

14 Q. Okay. Finish.

15 A. It states that those flight attendants, and it
16 talks about to get flight attendants fired, that is
17 general. I don't know what she's referring to
18 exactly.

19 Q. Okay. But she's talking about, make Charlene
20 and Chris Click stop. She says that.

21 By the way, stop what? Do you recall?

22 A. No.

23 Q. And it says, tell those flight attendants, and
24 the only flight attendants mentioned would be those,
25 Charlene and Chris?

1 A. Yes. I would assume so now, reading it.

2 Q. So tell those flight attendants not to talk
3 about me or the Union president trying to get flight
4 attendants fired.

5 So "me" is her and "union president" is her,
6 right?

7 A. Yes.

8 Q. And so she's saying, tell them not talk about
9 Audrey Stone or Audrey Stone, president of the
10 Union, right?

11 A. Yes.

12 Q. And it says, "they need to protect me." Once
13 again, my question to you is, in her answer to, what
14 do you want Southwest to do, she didn't say anything
15 about, well, really I'm -- she didn't tearfully say,
16 I'm doing this to protect other flight attendants,
17 especially one that might be pregnant. Nothing like
18 that, right?

19 MR. GREENFIELD: Objection, your Honor,
20 lack of foundation, speculation, and now he's
21 testifying as to what --

22 THE COURT: Hold on. That is a speaking
23 objection.

24 I'll allow it.

25 MR. PRYOR: I'm comparing it --

1 BY MR. PRYOR:

2 Q. You can answer.

3 A. Can you say the question one more time.

4 Q. Yeah. She didn't tell you anything about, I'm
5 not worried about me, I want you to protect other
6 flight attendants, especially one that might be
7 pregnant. She didn't tell you that, did she?

8 A. No.

9 Q. Okay.

10 MR. PRYOR: Let's go to Exhibit 90.

11 I'm sorry, your Honor, may I move -- I
12 move for the admission of Exhibit 90.

13 THE COURT: All right. Any objection to
14 90?

15 MR. McKEEBY: No objection.

16 THE COURT: Any from the Union?

17 MR. GREENFIELD: One moment, your Honor.
18 None, your Honor.

19 THE COURT: It is admitted. We are
20 publishing.

21 (The referred-to document was admitted in
22 Evidence as Trial Exhibit 90.)

23 BY MR. PRYOR:

24 Q. So it is Exhibit 90, there is an email from
25 Ms. Emlet, and you are in the lower email,

1 Mr. Schneider. And it says here the documents that
2 create the nexus from her Facebook page. I'm
3 summarizing.

4 I will show you those pictures.

5 That's the -- go to the next page.

6 MR. PRYOR: Do you want me to just hand
7 him a hard copy or --

8 MR. HILL: I'm about to drag it over.

9 MR. PRYOR: Okay.

10 BY MR. PRYOR:

11 Q. Okay. Here we go. I'm going to show you a
12 series of pictures and ask you if you recognize
13 these as the nexus that was used on her Facebook
14 page as part of one of your buckets to terminate
15 Ms. Carter.

16 Do you recognize this first one?

17 A. I have seen it in the past, yes.

18 Q. Is this one of the documents that you relied
19 upon as a nexus on her Facebook page to associate
20 her abortion video with Southwest Airlines?

21 A. It shows her with a Southwest badge on, yes.

22 Q. Okay. The answer is yes, and it is because it
23 shows a Southwest badge?

24 A. Yes.

25 Q. Okay. Can you tell from looking at it that it

1 is a Southwest badge?

2 A. Not here. If you zoomed in, you might be able
3 to.

4 Q. Okay, let's blow it up. Make it a little
5 smaller, see if will ever focus in.

6 Have you ever seen a version of this Facebook
7 post that shows anything other than a blurred
8 lanyard?

9 A. No. I have not.

10 Q. So -- by the way, do you know how long ago this
11 was from the time that the abortion video was
12 posted?

13 A. No, I don't.

14 Q. Would it matter to you, in order -- by the way,
15 a nexus is, there is some relationship between the
16 offensive post, or what be might be viewed as an
17 offensive post, and Southwest Airlines because
18 somebody going to Charlene's Facebook page could be
19 confused that maybe she's representing Southwest
20 Airlines and that affects Southwest Airlines' brand?

21 MR. GREENFIELD: Objection, your Honor.
22 Counsel is testifying as to --

23 THE COURT: Sustained.

24 MR. GREENFIELD: What he believes the
25 nexus is.

1 BY MR. PRYOR:

2 Q. So, your Honor, am I entitled to lead the
3 witness on this issue?

4 THE COURT: I think you need to ask what
5 the nexus is.

6 MR. PRYOR: So I can't lead him on this
7 issue. Okay.

8 THE COURT: You can lead him to nexus, but
9 your definition was too long. It amounted to you
10 testifying.

11 BY MR. PRYOR:

12 Q. What is nexus?

13 A. Anything that indicates that the employee is
14 employed by Southwest Airlines or has an interest in
15 Southwest Airlines.

16 Q. So anything on a Facebook page that shows you
17 are related somehow to Southwest Airlines creates a
18 nexus with whatever the offensive post is?

19 A. The thought process -- I'm sorry.

20 Q. Let me try it again.

21 Is the concept, that Southwest Airlines doesn't
22 want anybody posting something that someone might
23 think, hey, that is Southwest Airlines's position?
24 Is that the brand issue?

25 A. Yes.

1 Q. Okay.

2 So is it -- this picture can't do that, right?

3 A. No.

4 Q. Even though this is listed as one of the
5 reasons for the nexus?

6 A. We listed the whole package that was given to
7 us, that had anything to do with Southwest Airlines.

8 Q. Okay. And -- but this one would not support a
9 nexus, true?

10 A. Not if you can't see the badge or Southwest in
11 it.

12 Q. Well, you have already told us that you can't,
13 right?

14 A. Say it again.

15 Q. You have already told us that you can't see it?

16 A. You can't see it clearly, no.

17 Q. You can't see it unclearly. You can't tell at
18 all, true?

19 A. It depends. If somebody has flown on Southwest
20 Airlines or seen an employee with a badge, they
21 could make out that that looks like a Southwest
22 badge possibly. That is all it's saying.

23 Q. And that is your basis for nexus?

24 A. No. I'm saying that this, including all of the
25 other pictures with it, was nexus.

1 Q. This is one of them, right? This is part of
2 the nexus?

3 A. It could be. It wasn't my specific one that I
4 said to her indicated that she was employed by
5 Southwest Airlines.

6 Q. Does it matter that it was -- a picture was
7 years ago? Can you really say there is a nexus from
8 a picture over three years ago with a post -- is
9 that a nexus?

10 MR. McKEEBY: Objection, compound.

11 THE COURT: Sustained.

12 MR. GREENFIELD: And lack of foundation as
13 to the timing of this photo.

14 THE COURT: Sustained.

15 BY MR. PRYOR:

16 Q. Is there a nexus between a post today and a
17 post over 60 months ago?

18 A. If there is something on the Facebook page that
19 indicates that they are an employee of Southwest
20 Airlines, then the nexus could be made.

21 Q. And is that the way Southwest Airlines
22 typically enforces that policy, they go back years?
23 Scroll down those pages for half an hour and say,
24 boom, there is the nexus?

25 A. It means there is visibility to that

1 information. And if somebody was offended by what
2 it said, they may do a little more research and the
3 information is there.

4 Q. So someone is going to see Ms. Carter's post
5 opposing abortion, and it is immediately going to
6 enter into their mind, you know what I'm going to
7 do, I'm going to go back five years to see whether
8 or not there is any reference to Southwest Airlines,
9 is that what you are telling us?

10 MR. McKEEBY: Objection, foundation,
11 speculation.

12 MR. PRYOR: Responding to his answer.

13 THE COURT: Hold on. I will sustain that.

14 BY MR. PRYOR:

15 Q. Is it reasonable to believe that someone could
16 look at Charlene Carter's Facebook page where she
17 posts an abortion video, and then scrolls back over
18 three-and-a-half years to find a picture of her
19 husband in a Southwest Airlines uniform, and that is
20 going to tell the world Charlene Carter is
21 representing Southwest Airlines's position on
22 abortion? Is that reasonable?

23 A. If they were to look at all of the pictures
24 that were in the investigation.

25 Q. Okay. I just want to make sure.

1 You say that is reasonable, correct?

2 A. In today's world, there is a lot of passion out
3 there surrounding abortion, and people are very
4 motivated. And that is a possibility.

5 Q. And did anyone do that, other than your team?
6 Anyone? Did anyone complain?

7 MR. GREENFIELD: Objection -- objection,
8 your Honor. He changed his question. I will
9 withdraw my --

10 MR. McKEEBY: What is the question?

11 BY MR. PRYOR:

12 Q. Did anyone do that other than your team to try
13 and fire Ms. Carter?

14 MR. McKEEBY: Objection to the
15 characterization.

16 THE COURT: I'll allow it.

17 THE WITNESS: Are you asking if someone
18 did that to fire Ms. Carter, is that your question?

19 BY MR. PRYOR:

20 Q. I know the answer to that. That is not my
21 question.

22 My question is, do you know of anyone other
23 than your team that went back more than three years
24 to try and find a connection to Southwest Airlines
25 on Ms. Carter's Facebook page? Anyone?

1 MR. McKEEBY: Objection, foundation.

2 THE COURT: I'll allow it.

3 THE WITNESS: I'm not aware of that. But
4 they may not come and tell me that. It is a
5 perception that they would make on their own if they
6 did. And that is what we are concerned about.

7 BY MR. PRYOR:

8 Q. You are concerned with what?

9 A. Anything -- no, I'm saying that if somebody
10 made the perception that this person's video had
11 anything to do with Southwest Airlines.

12 Q. And you believed that it was reasonable to
13 believe that someone would go back years and
14 associate a picture with somehow Charlene Carter's
15 representing Southwest Airlines' position on
16 abortion, true? That could happen, right?

17 A. I answered that question. Yes.

18 Q. What was your answer?

19 A. That there is a possibility. With all of the
20 passion out there with abortion and the rights,
21 then -- people do a lot of things like that.

22 Q. So if I picture -- put a picture of myself
23 going to church, and three years ago, I posted a
24 picture me wearing a Southwest Airlines uniform, I
25 could be fired. I'm representing Southwest

1 Airlines's position on religion, Southwest Airlines
2 doesn't want me doing that, do they? You should
3 fire me.

4 MR. McKEEBY: Objection, incomplete
5 hypothetical.

6 MR. GREENFIELD: Objection, your Honor,
7 and proposing a false equivalency.

8 THE COURT: I'll allow it.

9 THE WITNESS: I don't know whether that
10 would or not.

11 BY MR. PRYOR:

12 Q. It is a possibility, though, right? Isn't that
13 what you say, "possibility"?

14 A. I think it is a possibility that somebody could
15 make the perception that -- that is true.

16 MR. PRYOR: Exhibit 92. I offer Exhibit
17 92 into evidence.

18 THE COURT: Ninety-two. Any objections to
19 92?

20 MR. McKEEBY: No objection.

21 THE COURT: All right. How about the
22 Union?

23 MR. GREENFIELD: I can only see part of
24 that, so give me one moment, your Honor.
25 Ninety-two? No, your Honor.

1 THE COURT: Okay. It is admitted. We are
2 publishing.

3 (The referred-to document was admitted in
4 Evidence as Trial Exhibit 92.)

5 BY MR. PRYOR:

6 Q. This is an email from Ms. Carter to you saying,
7 thank you -- you had contacted her about an
8 interview, I believe, true?

9 A. A fact-finding meeting, yes.

10 Q. Okay. And it says, thank you, Mr. Schneider.
11 I will call first thing Monday morning and ask for
12 the extension. I think she was on vacation at the
13 time?

14 A. Out of town, yes.

15 Q. This is all very new to me. I have never been
16 called in for anything in 20 years, and never had to
17 use the Union before, so thanks for the help.

18 In turn, did you look at her record to see if
19 she had a record at Southwest Airlines?

20 A. Yes.

21 Q. Did she have a clean record at Southwest
22 Airlines?

23 A. Yes.

24 Q. Did you take that into consideration as a
25 possibility in regard to whether or not to provide

1 an accommodation or maybe not think about the
2 possibility of some deranged person going back five
3 years on a Facebook page?

4 MR. McKEEBY: Objection.

5 THE WITNESS: I don't follow the question.

6 MR. PRYOR: Let's --

7 THE COURT: Hold on.

8 MR. PRYOR: I withdraw the question.

9 THE COURT: Okay.

10 MR. McKEEBY: Okay.

11 MR. PRYOR: Let's look at exhibit -- that
12 is not it either. I will get there.

13 BY MR. PRYOR:

14 Q. Do you recall in her interview, Ms. Stone
15 telling you that there were no pro choice activities
16 by the Union?

17 A. Did I tell her there were no pro choice?

18 Q. She told you during the interview -- let me go
19 back to her interview notes. Let me find them.

20 Do you recall asking her whether or not the
21 Union had taken any positions on abortion and her
22 telling you that they had not?

23 A. I vaguely remember that.

24 Q. You don't? I'm sorry?

25 A. I vaguely remember that.

1 Q. Okay.

2 Let's look at Exhibit 56.

3 And it's AP32, which is like the fourth or
4 fifth page.

5 Q. Do you know who Jessica Parker is?

6 A. Yes, I do.

7 Q. She's a union member?

8 A. She was.

9 Q. By the way, were you a union member?

10 A. During this investigation?

11 Q. No. During your tenure at Southwest Airlines?

12 A. Yes.

13 Q. Were you in an official position or just a
14 paying dues member?

15 A. I was a paying dues member.

16 Q. That is all?

17 A. Yes.

18 Q. Okay. I was just trying to find out if you
19 were an officer.

20 A. No.

21 Q. Okay. So this is a post from the Women's March
22 by TWU Local 556.

23 Do you see where it says, "My body, my choice"?

24 A. Yes.

25 Q. Is that consistent with what you were told by

1 Ms. Stone?

2 A. That they don't have a stand on it?

3 Q. That they didn't do any pro choice activities
4 at the march.

5 A. Yes, I do.

6 Q. It is consistent or inconsistent?

7 A. I don't believe that they -- I saw anything
8 indicating that they were pro choice or pro life.

9 Q. Well, what does this tell you?

10 This is the TWU Local 556 post from the Women's
11 March, "My body, my choice."

12 You don't know what that means?

13 A. I'm not completely familiar with it. I'm sure
14 it has something to do, if you are saying so, with
15 abortion.

16 Q. So you don't know. The person investigating
17 doesn't know what "my body, my choice" means?

18 A. No. All I'm saying is that I don't know if
19 that is a union member holding it up or not.

20 Q. Oh, no. I'm -- the Union -- it is posted on
21 the Union Facebook.

22 A. Okay.

23 Q. That is the Union taking a position about the
24 march and pro choice.

25 A. Okay.

1 Q. That was -- that is what I meant by my
2 question.

3 MR. McKEEBY: I object, he's testifying
4 about what the union --

5 THE COURT: Well, rephrase it and ask a
6 question.

7 BY MR. PRYOR:

8 Q. And so, therefore, understanding that, is that
9 consistent or inconsistent with what Ms. Stone told
10 you?

11 MR. McKEEBY: Well, same objection. You
12 didn't correct the --

13 THE COURT: Yes. Can you back up and ask
14 your last question as a question. You are making a
15 statement and he said okay. But can you ask it in
16 question form.

17 MR. PRYOR: I will.

18 BY MR. PRYOR:

19 Q. Do you recall telling us your recollection is
20 that Ms. Stone told you that there were no pro
21 choice activities on the part of the Union in regard
22 to the Women's March, true?

23 A. I said I vaguely remember. I don't remember
24 the details of what was said.

25 Q. I will take your vague recollection.

1 A. Okay.

2 Q. But in fact, January 26, 2017, the local union
3 posts from the Women's March a poster saying, "My
4 body, my choice"? Based on this document, right?

5 A. It shows a picture saying that statement, yes.

6 Q. Is that consistent or inconsistent with what
7 she told you?

8 A. I would say that it is inconsistent, if this is
9 specifically what it means.

10 MR. PRYOR: Can you tell me the exhibit?
11 Ninety-eight. Let's look at Exhibit 98.

12 Is it in evidence?

13 THE COURT: It is not.

14 MR. PRYOR: I offer Exhibit 98.

15 THE COURT: Ninety-eight, any objection?

16 MR. McKEEBY: No objection from Southwest.

17 THE COURT: Okay. How about the Union?

18 MR. GREENFIELD: None, your Honor.

19 THE COURT: Okay. It is admitted. We are
20 publishing.

21 (The referred-to document was admitted in
22 Evidence as Trial Exhibit 98.)

23 BY MR. PRYOR:

24 Q. Mr. Schneider, are these the interview notes of
25 the interview of Charlene Carter in regard to your

1 investigation?

2 A. Yes.

3 Q. And as with the notes regarding Ms. Stone's
4 interview, you believe that these are accurate?

5 A. Yes.

6 Q. Let's look at a couple things.

7 Who is Eddie Barnett?

8 A. That is the HR VP human resource business
9 person for Southwest Airlines.

10 Q. It says here, he says, this is my first case
11 involving the guidelines for employees which
12 includes the social media policy, and is the main
13 reason I'm on the call.

14 Do you see that?

15 A. Yes.

16 Q. Do you know if that is accurate?

17 A. If she said it, then it must be accurate.

18 Q. If she said it, it must be true?

19 A. Correct.

20 Q. You know her. You would believe her if she
21 said it?

22 A. Yes.

23 Q. You don't know whether or not she opined
24 regarding whether or not posts on Facebook of core
25 team members of Audrey Stone violated social media

1 policy?

2 MR. McKEEBY: Objection, foundation, I
3 don't know what --

4 MR. PRYOR: I'm creating a foundation.

5 THE COURT: I'll allow it.

6 THE WITNESS: Okay. I did not follow your
7 question.

8 BY MR. PRYOR:

9 Q. Yes.

10 Do you know whether or not Eddie Barnett was
11 involved in Southwest Airlines's decision whether or
12 not to take action against core team members?

13 MR. PRYOR: Hang on. Can I approach, your
14 Honor?

15 THE COURT: You may.

16 (Thereupon, the following proceedings were
17 had at sidebar:)

18 MR. PRYOR: I just want to make sure I'm
19 not violating. I'm just asking whether or not we
20 believe Eddie Barnett said in regard to the core
21 team members that it did not violate Southwest's
22 policy because it was union-protected activity and
23 not illegal. I'm not going to ask him that.

24 MR. McKEEBY: I'm trying to understand.
25 I'm confused.

1 MR. PRYOR: I'm telling my basis for
2 asking the question.

3 The question is, do you know whether or
4 not Eddie Barnett was involved in Southwest
5 Airlines's decision in regard to what action to
6 take, if any, against core team members making posts
7 on the core team member Facebook page? I'm not
8 asking what punishment. I am asking --

9 MR. McKEEBY: I don't think I care. That
10 question is okay.

11 THE COURT: Yeah, I think that question is
12 okay.

13 MR. PRYOR: That is as far as I'll go.

14 MR. McKEEBY: I appreciate that.

15 The next one is not, I think we are all on
16 the same page.

17 MR. PRYOR: Well, I'm done after that one.

18 MR. GREENFIELD: Your Honor, while we are
19 here, so we don't have to come back and I don't have
20 to object and bother the jury again, I will have a
21 foundation argument objection if he doesn't set up
22 that he has some sort of knowledge about the core
23 team investigation.

24 MR. PRYOR: Me?

25 MR. GREENFIELD: Yeah.

1 MR. PRYOR: I will take the stand.

2 MR. GREENFIELD: I just --

3 MR. PRYOR: No, I'm willing to.

4 MR. GREENFIELD: He has to ask --

5 THE COURT: He is asking you to ask that
6 question first, do you have knowledge about core
7 team.

8 MR. PRYOR: Oh, that is not near as much
9 fun.

10 MR. McKEEBY: I will put you up there.

11 MR. PRYOR: Wait, if I have to do that --
12 you are making me do that?

13 THE COURT: I don't give advisory rulings.

14 MR. PRYOR: Okay. Good. All right.

15 THE COURT: So you can ask the question.

16 (Thereupon, the sidebar was concluded and
17 the following proceedings were held in open
18 court:)

19 THE COURT: Okay. You can ask your
20 question.

21 BY MR. PRYOR:

22 Q. Sir, do you know whether or not Eddie Barnett
23 was involved in Southwest Airlines's decision
24 whether or not to take action against any persons
25 making posts on what was referred to as a core team

1 Facebook page in support of Audrey Stone?

2 A. I do not know that.

3 Q. Okay. Let's look at Exhibit 98.

4 And the question is, do you see where it says,
5 the first is a picture of an unborn infant, why were
6 these posted on your Facebook page?

7 Do you see that?

8 A. I haven't found it yet, no.

9 Q. Where that cursor is?

10 A. Yes.

11 Q. And Charlene's response is, I'm Christian. I'm
12 a conservative and I'm pro life.

13 You understood that at the time?

14 A. Yes.

15 Q. Let's go to the next page. And again, Ed says,
16 she made the statement, I just want to know what she
17 means by that. And then Charlene says, I had an
18 abortion, I regret every bit of it, so I work with
19 other pro life groups. And for me as a Christian.
20 Again, she's telling this involves her religious
21 belief, true?

22 A. True.

23 Q. Let's go to page 4.

24 This is talking about a button she wore
25 relating to Israel.

1 By the way, do you know anything about that
2 button?

3 A. As part of the investigation, yes.

4 Q. Okay. Do you recall that that is something she
5 started wearing after 911 without any objection from
6 Southwest Airlines?

7 MR. GREENFIELD: Objection, your Honor.
8 He's testifying, lack of foundation.

9 THE COURT: I'll allow it.

10 THE WITNESS: I had never seen her wearing
11 that, so I don't know how long she had been wearing
12 it or if she even wore it.

13 BY MR. PRYOR:

14 Q. The answer is you don't know? Did you inquire?
15 Did you inquire?

16 A. It shows it on the picture.

17 Q. And from years ago, correct?

18 A. I don't know the date.

19 Q. Well, do you know that she told you she had
20 been wearing it for years, without objection from
21 Southwest Airlines? Until now, apparently?

22 A. Okay.

23 Q. And the part I'm reading, it is in the middle,
24 it says, my love for that country through my
25 Christian, you know, beliefs, my belief system.

1 She's again telling you she's exercising her
2 religious beliefs, true?

3 A. Yes.

4 Q. And if you look at the bottom of page 5, you
5 can read from there and then read the next, and then
6 into the next page.

7 Do you see where it says, she's our union
8 president?

9 Do you see that? Towards the bottom?

10 A. Who is saying it, Charlene?

11 Q. She is our union president?

12 A. Oh.

13 Q. And then on the next page -- and the poor
14 person taking notes must have been -- who took the
15 notes?

16 A. Meggan Jones.

17 Q. The lady over here?

18 A. Yes. That is her.

19 Q. She goes on -- and you don't have to read it
20 all -- she goes on and explains that she's opposed
21 to her union being involved in this march, right?

22 A. Yes.

23 Q. And then she says, if you go down, says, they
24 support Planned Parenthood. They march right
25 alongside with them.

1 Do you see that?

2 A. Not yet. Is it near the top?

3 Oh, down there. Okay.

4 Q. Do you see where it says "they support Planned
5 Parenthood, they march right along with them"?

6 A. Right.

7 Q. Does that refresh your recollection as opposed
8 to what you told us this morning, you don't recall
9 anything about Planned Parenthood?

10 A. I was not aware that it was Planned Parenthood.
11 As far as I knew, it was a Women's March for women's
12 rights.

13 Q. She was telling you that the march was
14 supported by Planned Parenthood, and that is what
15 she objected to.

16 And you missed that point entirely?

17 A. No. She stated that.

18 Q. Okay.

19 And you --

20 A. I didn't see the evidence for it.

21 Q. Well, did you ask for evidence? Did you
22 disagree with it?

23 A. She showed pictures of the Union banner, but I
24 didn't see any Planned Parenthood symbols on any of
25 the -- or the Union pictures or banners.

1 Q. Did you see pictures of the Union marching with
2 Southwest Airlines' name on their banner?

3 A. The local TWU 556 of Southwest flight
4 attendants was written on there, yes.

5 Q. And was any action taken for the posts from
6 that march that said pro life and having a nexus to
7 Southwest Airlines? Not five years ago, but 30
8 minutes ago?

9 MR. McKEEBY: Objection, foundation.
10 Facts not in evidence.

11 THE COURT: Sustained.

12 MR. PRYOR: What is not in evidence?

13 MR. McKEEBY: I will tell you what is not
14 in evidence. I'm not sure if --

15 THE COURT: Sidebar.

16 MR. McKEEBY: Not comfortable responding
17 to counsel.

18 THE COURT: Sidebar.

19 (Thereupon, the following proceedings were
20 had at sidebar:)

21 MR. McKEEBY: Well, your question said
22 that there was a picture of a sign that said
23 Southwest Airlines and pro choice.

24 MR. PRYOR: No, I didn't.

25 MR. McKEEBY: Yes, you did.

1 MR. PRYOR: No. Repeat it. I didn't. I
2 am a little bit tired of being accused of things I
3 didn't do. Read it.

4 MR. McKEEBY: Okay. If I misheard that --
5 that is what I heard.

6 THE COURT: That is what I heard, too.

7 MR. PRYOR: Okay. Well, let me -- that is
8 not what I said.

9 I will rephrase it, then.

10 THE COURT: Okay.

11 (Thereupon, the sidebar was concluded and
12 the following proceedings were held in open
13 court:)

14 BY MR. PRYOR:

15 Q. You are aware that there was a banner at the
16 march used by Local 556 that said Southwest
17 Airlines, true?

18 A. It said TWU 556, the meeting of Southwest
19 Airlines flight attendants.

20 Q. So associated with Southwest Airlines, right?
21 That is your brand?

22 A. That is associated with the Union of Southwest
23 Airlines.

24 Q. So if you say "union," then it doesn't matter,
25 right?

1 A. I don't know. I'm just stating what it said.
2 That is all I'm saying.

3 Q. And I showed you earlier a picture from the
4 march that referenced pro choice, true?

5 A. No. It said "My body, my choice," it said.

6 Q. All right.

7 So I'm going to represent to you, since you
8 don't know, that that is a pro choice position on
9 abortion.

10 Now, you got these two things, you have
11 Southwest Airlines -- and it is on the post, it is
12 on the same Facebook post the same day as the post
13 that says pro choice.

14 You got it?

15 MR. McKEEBY: Objection, this is argument
16 again.

17 THE COURT: I'll allow this.

18 BY MR. PRYOR

19 Q. So you have got these two facts. So is that a
20 nexus? Or does it have to be five years ago to be a
21 nexus?

22 A. I didn't see it on the same page, if that is
23 what you are asking me.

24 Q. So it has to be on the same page?

25 A. No. I'm trying to clarify your question. You

1 said, if they are on the same page, and I'm just
2 trying to clarify what page you are talking about.

3 Q. The page I showed -- the Facebook page I showed
4 you earlier that says, pro choice?

5 A. That said, "My body, my choice"?

6 Q. That's right.

7 A. Yes.

8 Q. And on that same Facebook page, I don't know,
9 you may have to scroll for two seconds to get to
10 it -- there is the banner that says Southwest
11 Airlines, you are aware of that?

12 A. If it is on there, yes.

13 Q. And I'm saying, which is a closer nexus to
14 taking a position on abortion on behalf of Southwest
15 Airlines, that post that is within a few seconds of
16 each other, or one that is three, four, five years
17 apart?

18 A. As far as -- if it is going to result in
19 discipline, it the egregiousness of the post-type
20 thing. That is a stand. And I'm not investigating
21 that.

22 Q. Which is a closer nexus?

23 A. Closer how?

24 Q. Closer in time. How about that?

25 A. Probably if it is on the same -- in the same

1 day, that is closer.

2 Q. Probably?

3 A. I don't know when the other posts were. I
4 don't have dates and times of every post.

5 Q. I told you to assume it was in the same day,
6 within seconds, but that is okay. It is only
7 possible that that one is closer in time than five
8 years.

9 I will accept your answer and move on.

10 MR. PRYOR: Exhibit 111. And I offer into
11 evidence Trial Exhibit 111.

12 THE COURT: 111. Any objections to 111?

13 MR. McKEEBY: No objections from
14 Southwest.

15 THE COURT: How about from the union?

16 MR. GREENFIELD: No, your Honor.

17 THE COURT: Okay. 111 is in. We are
18 publishing.

19 (The referred-to document was admitted in
20 Evidence as Trial Exhibit 111.)

21 BY MR. PRYOR:

22 Q. You are familiar with Exhibit 111 in some
23 emails, some you authored and some you received?

24 A. Yes.

25 Q. Let's start at the bottom one. Denise

1 Guttierrez, she's with employee relations?

2 A. Is that a question? Yes, she is.

3 Q. Let's go to the second page, at the top.

4 And it says, while the videos depicting
5 abortion are considered to be offensive, they do not
6 violate the company's harassment, sexual harassment,
7 discrimination and retaliation policy, but they
8 should be addressed.

9 That is what they told you, isn't it?

10 A. Yes.

11 Q. So did you agree with them? Or did it matter?

12 A. I agreed with them.

13 Q. Okay. So two of the three the buckets, two of
14 them didn't violate any harassment policies, right?

15 A. Correct.

16 Q. And then it says, however, the images of women
17 dressed as vaginas do violate the aforementioned
18 policy due to their sexual nature.

19 So they concluded that the vagina pictures
20 violated the policy, true?

21 A. Yes.

22 Q. And then you respond, I have attached the
23 termination letter. Do you want me to add
24 harassment policy? True?

25 A. Yes.

1 Q. And this is your draft letter attached. And it
2 says, under the reasons for termination, one,
3 Southwest Airlines's social media policy, right?

4 A. I don't see it on here.

5 Q. I'll get the letter for you; it's the
6 attachment.

7 A. Okay. Yes. It does say "social media policy."

8 Q. And then it says, "bullying policy." They
9 don't have a bullying policy at Southwest Airlines,
10 do they?

11 A. It is depicting the same policy. But that was
12 something that needed to be edited.

13 Q. I understand.

14 Do they have a bullying policy at Southwest
15 Airlines? As opposed to a workplace bullying
16 policy?

17 A. It is semantics, but it is referring to the
18 same thing.

19 Q. There is no reason that you were wanting to
20 leave out "workplace" though, right?

21 A. No.

22 Q. And under the third one, it says, workplace
23 rules 3.0.0. And that did not find its way into the
24 final termination letter, correct?

25 A. It refers to it in part.

1 Q. Does it reference this policy as being a basis
2 for termination?

3 A. Not specifically, no.

4 Q. Does "not specifically" mean no or is this
5 another where you think generally, it might?

6 A. No. If we look at the letter, there is a
7 statement in there that references --

8 Q. 3.0.0?

9 A. It doesn't say it specifically. I have to
10 read -- look at the letter again to know for sure,
11 the final termination letter.

12 Q. It doesn't specifically say 3.0.0, but
13 generally says it?

14 A. It says it could violate other areas. And I
15 don't know specifically the wording.

16 Q. I'm not asking about could. I'm trying to ask
17 about the policies that were part of the termination
18 in 3.0.0 were not part of the determination
19 decision, true?

20 A. True.

21 Q. And, in fact, the harassment policy was not
22 included either, was it?

23 A. Once again, it referred to, it could have been
24 violated. It doesn't specifically say it was.

25 Q. It doesn't generally say it was; it says it

1 could.

2 A. Correct.

3 Q. It doesn't anywhere say she was fired for
4 harassment policy, true?

5 A. Other than referencing it in there?

6 Q. Referencing that it could have --

7 A. Correct.

8 Q. -- but that is not the reason. You gave two
9 reasons --

10 A. Correct.

11 Q. -- workplace bullying and social media policy?

12 A. Yes.

13 Q. Workplace bullying that you don't know took
14 place at the workplace and social media policy, is
15 that fair?

16 A. Correct.

17 Q. Why was harassment not included?

18 A. Because it was partially a violation, and we
19 didn't want to put something in there that was
20 partially violated because it wouldn't be as strong
21 as the other two.

22 MR. PRYOR: Okay. Let's look at Exhibit
23 115. I move for its admission. It may already be
24 in. I don't know.

25 THE COURT: 115. It is in.

1 So I will ask, any objections?

2 MR. McKEEBY: No objections from
3 Southwest.

4 MR. GREENFIELD: None, your Honor.

5 THE COURT: Okay. 115 is in. We are
6 publishing.

7 MR. PRYOR: Yes.

8 (The referred-to document was admitted in
9 Evidence as Trial Exhibit 115.)

10 BY MR. PRYOR:

11 Q. Let's look at the final version. It says in
12 the second paragraph, during the meeting you
13 admitted you posted graphic videos of aborted
14 fetuses on Facebook and sent those videos in a
15 private Facebook message to another Southwest flight
16 attendant.

17 Is that what it says?

18 A. Yes.

19 Q. Why doesn't it reference that it was sent to
20 her as union president, as you have told us?

21 A. We are protecting one of our employees.

22 Q. I understand. But you have told us as to all
23 three buckets, you understood she was sending it to
24 Audrey Stone and the Union complaining about union
25 activity.

1 Do you understand -- I understand Audrey Stone
2 is a flight attendant, although, she wasn't working
3 as a flight attendant at the time, was she?

4 MR. McKEEBY: Objection, compound.

5 MR. PRYOR: I will remove it.

6 BY MR. PRYOR:

7 Q. Was she working as a flight attendant at time
8 any of these posts were sent to her?

9 A. She was still an employee of Southwest
10 Airlines, but she was doing union business, yes.

11 Q. She was not acting as a flight attendant at the
12 time she received any of these posts, true?

13 A. It is loosely how you say "she was acting as a
14 flight attendant." She was still an active flight
15 attendant who is certified.

16 Q. Under that definition, she will be a flight
17 attendant until she dies.

18 I'm asking you --

19 MR. GREENFIELD: Objection, your Honor, to
20 the sidebars continuing.

21 THE COURT: Sustained.

22 MR. PRYOR: I withdraw that.

23 BY MR. PRYOR:

24 Q. So she was not acting as a flight attendant at
25 the time she received any of these messages that she

1 received from Charlene Carter, true?

2 A. True. In the sense of the word.

3 Q. But she was acting as union president, true?

4 A. Yes.

5 Q. You don't mention that here, correct?

6 A. Correct.

7 Q. And then it says, in the next paragraph,
8 Charlene, when you posted the graphic videos and
9 pictures on Facebook, you were identifiable as a
10 Southwest Airlines employee and represented our
11 company and a manager, disparaging flight
12 attendants, as well as to all Southwest employees.

13 That is what you wrote?

14 A. Yes.

15 Q. And the post you are referring to are the posts
16 we talked about earlier that were years before?

17 A. The posts of the aborted fetus?

18 Q. No. The post that you say she represented --
19 you say that, you were identifiable as a Southwest
20 Airlines employee and represented our company.

21 So those posts from years ago, you are saying
22 she was representing Southwest Airlines in regard to
23 those abortion videos that are three, four years
24 apart?

25 A. Yes.

1 Q. Then you say, although your posts and messages
2 may have been made and/or sent outside of work, so
3 you are acknowledging here, you knew it did not take
4 place in the workplace, right?

5 A. I said may have been.

6 Q. May have been made or sent. That about covers
7 the gambit. By saying "may," you think that they
8 actually did occur in the workplace?

9 A. I'm not saying it did or didn't. I'm just
10 saying it could have. And -- or it might have been
11 outside, but it still represented the company.

12 Q. Well, not workplace, then.

13 MR. McKEEBY: Objection; that is argument.

14 THE COURT: You can ask it as a question.

15 BY MR. PRYOR:

16 Q. It is not workplace, then, is it?

17 A. What is not workplace?

18 Q. If she's not doing it in the workplace, it is
19 not workplace?

20 A. It is not workplace, correct.

21 Q. And she was terminated, in part, for violating
22 the workplace bullying/hazing policy, right?

23 A. Yes.

24 Q. Do you know that Southwest Airlines, as part of
25 its agreement with the Union, tracks Southwest

1 Airlines's reprimanding of employees? You have to
2 keep a record of it and the Union gets it?

3 A. Okay.

4 Q. You don't know that?

5 A. I'm not following the question. I was --

6 Q. I'm saying, do you accept what I'm telling you
7 so far? That your company keeps a record of every
8 kind of employee that gets a punishment, and they
9 say, here is how many social media policies we had
10 this year, here is how many 30-day suspensions we
11 had?

12 A. Yes.

13 Q. You know they do that?

14 A. Yes.

15 Q. And do you know that they are required to,
16 right?

17 A. I know they do. I don't know about the
18 requirement.

19 Q. And they have all kind of categories, including
20 workplace bullying and hazing policy and social
21 media and sexual harassment. They keep all of that?

22 A. Okay.

23 Q. Right? Are you aware of that?

24 A. I have seen some stats on that. I'm not aware
25 of how detailed the collection of that is.

1 Q. Do you know that there is not a single record
2 in the history of Southwest Airlines of anyone being
3 terminated or reprimanded for a violation of the
4 mission statement?

5 A. No, I wasn't aware of that.

6 Q. And in fact, you include -- they don't even
7 keep a record of that. You are not aware of that?

8 MR. GREENFIELD: Objection, your Honor,
9 lack of foundation.

10 THE COURT: Sustained.

11 BY MR. PRYOR:

12 Q. Are you aware of whether or not the company
13 keeps track of purported violations of the company's
14 mission statement?

15 A. No.

16 Q. But you include mission statement in your
17 termination letter, true?

18 A. True.

19 Q. Had you ever done that before ever?

20 A. It seems like we have referred to it in the
21 past.

22 Q. Have you ever, to your recollection -- let's go
23 back that.

24 Have you ever terminated anyone prior to this
25 for violation of social media policy?

1 A. Yes.

2 Q. Who?

3 A. Or no -- you said for -- terminated violation?

4 MR. PRYOR: I withdraw the question.

5 BY MR. PRYOR:

6 Q. It is fair to say you have never, as of the
7 time of terminating Charlene Carter, never
8 terminated anyone for violation of the company's
9 social media policy?

10 THE COURT: I'm not aware of that.

11 MR. McKEEBY: Objection. Objection,
12 relevance. Prejudice. Motion in limine.

13 THE COURT: Limine.

14 MR. McKEEBY: I'm sorry?

15 THE COURT: It is limine.

16 MR. PRYOR: Sustained?

17 THE COURT: Yes.

18 BY MR. PRYOR:

19 Q. There is nothing in the termination letter
20 referring to Charlene Carter having threatened
21 Ms. Stone, correct?

22 A. No.

23 MR. PRYOR: Let's look at Exhibit 64. I
24 move to introduce Exhibit 64.

25 THE COURT: Sixty-four.

1 MR. PRYOR: They are calling it up.

2 THE COURT: Okay. Objections -- prior
3 objections?

4 MR. McKEEBY: Sorry. No objections.

5 MR. GREENFIELD: None, your Honor.

6 THE COURT: Sixty-four is in. We can
7 publish.

8 (The referred-to document was admitted in
9 Evidence as Trial Exhibit 64.)

10 BY MR. PRYOR:

11 Q. And can you identify Exhibit 64 as what you
12 understood Charlene Carter to have posted on her
13 Facebook page that is one of the three buckets that
14 she was terminated for?

15 A. Yes.

16 MR. PRYOR: And let's look at Exhibit 107.

17 MR. GILLIAM: Move for admission.

18 MR. PRYOR: I move for the introduction
19 admission of Exhibit 107.

20 THE COURT: 107.

21 Any objections to 107?

22 MR. McKEEBY: No objection from Southwest.

23 THE COURT: How about the Union?

24 MR. GREENFIELD: None, your Honor.

25 THE COURT: Okay. 107 is in. We are

1 publishing.

2 (The referred-to document was admitted in
3 Evidence as Trial Exhibit 107.)

4 BY MR. PRYOR:

5 Q. Can you identify Exhibit 107?

6 A. Yes.

7 Q. Are these your -- tell me what it is.

8 A. It is a summary of my investigation sent to
9 labor relations and employee relations, and HR VP.

10 Q. And in the first paragraph you say, she stated
11 that Charlene Carter has been making comments that
12 indicated she was not union friendly since 2008.
13 Audrey Stone became president of TWU in 2013, and
14 she stated Charlene has been sending her messages
15 since that time, before there were any issues due to
16 abortion or women's rights. True?

17 A. That is what it states, yes.

18 Q. I'm looking for a particular sentence.

19 Here we go, one, two -- in the third paragraph,
20 it says "In our fact-finding meeting with Charlene
21 she openly admitted to sending Facebook messages to
22 Audrey for at least the past two years. She latched
23 on to the Women's March and abortion issues as her
24 defense, stating it was her values as a Christian,
25 but the harassment has been going on much longer."

1 Do you see that?

2 A. Yes.

3 Q. What harassment?

4 A. The continuous messages sent to Audrey Stone.

5 Q. So the messages that were sent by Charlene
6 Carter complaining about her union is what you are
7 referring to as the harassment?

8 A. Yes.

9 Q. It says, Charlene has been barraging Audrey
10 with Facebook messages, rantings since March 2015,
11 has incessantly called her morally bankrupt, no
12 integrity, corrupt and inept.

13 Do you see that?

14 A. She just got it up. Yes, I see it at the
15 bottom.

16 Q. And you considered her union communications to
17 be her incessantly doing those things?

18 A. Yes.

19 Q. Then on the next page, you once again refer to
20 it as a bullying and hazing policy, don't you? It's
21 coming up.

22 A. Yes.

23 Q. Did you not realize that it had to take place
24 in the workplace?

25 A. On the final letter I did.

1 Q. Were you aware of it at the time that you took
2 the actions that you did against Ms. Carter?

3 A. You mean as far as placing the word "workplace"
4 in it or what are you asking?

5 Q. I'm asking whether or not you thought it was a
6 bullying and hazing policy or a workplace bullying
7 and hazing policy?

8 A. The workplace bullying and hazing policy could
9 be referring to our workplace policy. It involves
10 all of our employees. It doesn't -- they may not
11 specifically mean it has to happen in the workplace.
12 It is a workplace bullying and hazing, it covers all
13 employees.

14 Q. But whether they are in the workplace or not,
15 right?

16 A. I don't know because --

17 Q. You don't know?

18 A. -- there are two different opinions on there.
19 I mean, you are saying -- you are making it that it
20 is specifically in the workplace only, but --

21 Q. I'm just reading what your policy says, sir.
22 But you're telling me that "workplace" is really
23 kind of an optional word there, right?

24 MR. McKEEBY: Objection, mischaracterizes.

25 THE COURT: Sustained.

1 BY MR. PRYOR:

2 Q. You are saying that the workplace bullying and
3 hazing policy doesn't necessarily just apply to the
4 workplace? True?

5 A. I'm saying that it covers all employees towards
6 each other. That is what I'm saying.

7 Q. Does it require the activity to be at the
8 workplace or not?

9 A. I -- I think that it can be in the workplace.
10 It has to do with covering our employees, more than
11 anything.

12 Q. Okay. Is it limited to the workplace as stated
13 in the policy or not?

14 MR. McKEEBY: Objection, asked and
15 answered.

16 THE COURT: I'll allow it.

17 THE WITNESS: I don't know whether that is
18 stated in there or not, that it has to be in the
19 workplace.

20 BY MR. PRYOR:

21 Q. It says "workplace bullying."

22 A. Right.

23 Q. That is what I mean when I say it's at the top
24 in bold and it is in the statement itself.

25 So where it says "workplace bullying," what it

1 really means is workplace, and we're also going to
2 be big brother everywhere else, right?

3 MR. McKEEBY: Object to the
4 characterization.

5 MR. PRYOR: It seems fair.

6 THE COURT: I'll allow it.

7 BY MR. PRYOR:

8 Q. Go ahead. You can answer.

9 A. It covers the workplace and it covers how we
10 treat each other in the workplace. It could be
11 harassing. It could be an event that we sponsor.
12 There is different facets of it that could be true.

13 MR. PRYOR: Let's look at Exhibit 98.

14 THE WITNESS: Matt, can you show me where
15 that is at?

16 BY MR. PRYOR:

17 Q. Do you recognize this is as your interview
18 notes or interview notes of Ms. Carter? We talked
19 about them earlier.

20 A. Yes.

21 MR. McKEEBY: Can we wait until one lawyer
22 is at the podium?

23 MR. PRYOR: Sure.

24 MR. McKEEBY: I'm asking the judge, but --

25 THE COURT: Yes. We can. We can wait to

1 ask questions until we are down to one.

2 BY MR. PRYOR:

3 Q. Got it. Let's go to page 2.

4 In response to a question, Ed says, it affects
5 people when they see it. What is being depicted on
6 the video?

7 And according to the notes of the meeting that
8 you think are accurate, she said, it is an abortion,
9 it is a baby. People say it is just cells; that is
10 not just a tissue, it is a baby. It shows someone
11 who made the same mistake that I did and they need
12 to understand, they need to know that it is a life
13 and not just a bunch of tissue. That is my stance.

14 Do you see that?

15 A. Yes.

16 Q. That is what she told you?

17 A. Yes.

18 Q. Did you consider that in your termination
19 decision?

20 A. Consider what? Her stand?

21 Q. Her telling you why she did that?

22 A. Yes.

23 Q. What consideration did you give it?

24 A. That that is her stand and that is where her
25 belief is.

1 Q. But that was -- that belief was not taken into
2 consideration in regard to the termination?

3 MR. McKEEBY: Objection, asked and
4 answered.

5 THE COURT: Sustained.

6 BY MR. PRYOR:

7 Q. So your -- what you told me earlier is that the
8 videos were offensive and that is why you terminated
9 her.

10 Those three buckets. Right?

11 A. Yes.

12 Q. All right.

13 MR. PRYOR: Pass the witness.

14 THE COURT: All right. So who is going to
15 ask questions first? Is it you, Mr. McKeeby, or
16 you, Mr. Greenfield?

17 MR. McKEEBY: Southwest intends to reserve
18 its questions until its case-in-chief.

19 THE COURT: Understood.

20 Mr. Greenfield.

21 MR. GREENFIELD: I will go ahead and ask
22 now.

23 THE COURT: You will go now? Okay.

24

25

1 CROSS-EXAMINATION

2 BY MR. GREENFIELD:

3 Q. Good morning, Mr. Schneider.

4 A. Good morning.

5 Q. My name is Adam Greenfield and I represent the
6 Union. Have we ever met before?

7 A. I don't believe so.

8 Q. I don't believe so either. It is nice to meet
9 you.

10 Have you found many of counsel's questions
11 confusing today?

12 A. Yes.

13 MR. PRYOR: Object, leading.

14 MR. GREENFIELD: This is not my witness.

15 MR. PRYOR: He's certainly not adverse.

16 This is an employee of Southwest --

17 THE COURT: I don't think that is a
18 sufficient question. I know he can't lead him, but
19 he's got to move up a different topic and set up a
20 topic. I think that is fine.

21 MR. McKEEBY: There is a technical issue.

22 THE COURT: We are pulling your feed, but
23 are you displaying anything right now?

24 Okay. It is not pulling it up.

25 There it is.

1 Is this in evidence?

2 MR. GREENFIELD: Yes.

3 BY MR. GREENFIELD:

4 Q. Mr. Schneider, this is Exhibit 56. Do you
5 remember opposing counsel asking you about this
6 document?

7 A. Yes.

8 Q. Okay.

9 At the top of this page, it has -- it looks
10 like a post from Jessica Parker shared TWU Local
11 556's video, is that correct?

12 A. Yes.

13 Q. And what did Ms. Parker write?

14 A. Why we marched.

15 Q. All right. Now, on the picture, there is a
16 statement there as well.

17 Can you identify what that statement says?

18 A. Equal pay.

19 Q. Okay. Well, I'm specifically talking about the
20 comment that was added to the photo.

21 A. Women make only 80 cents for every dollar.

22 MR. GREENFIELD: Thank you. You can take
23 it down.

24 BY MR. GREENFIELD:

25 Q. I would like to talk to you about a couple

1 things today, your duty to investigate and the
2 decision you made to terminate Charlene Carter.

3 Okay?

4 A. Yes.

5 Q. Let's start with the duty to investigate.

6 All employees have a right to be free from
7 bullying and harassment in the workplace, correct?

8 A. Yes.

9 Q. And to be free from threats of physical
10 violence?

11 A. Yes.

12 Q. And if an employee brings you a complaint of
13 that nature, either of those, you have a duty to
14 investigate that, correct?

15 A. Yes.

16 Q. Now, I would like to go back to the
17 hypothetical that opposing counsel raised, and I
18 would like to complete that.

19 Let's go back to Cabo. Do you remember Cabo?

20 A. Yes.

21 Q. Do you remember the hallway in Cabo?

22 A. Yes.

23 Q. Now, I would like to add on to that
24 hypothetical.

25 Let's say that one flight attendant says, I'm

1 going to kick your butt the next time I see you back
2 on line.

3 Okay?

4 A. Yes.

5 Q. Now, is that a threat? If that was brought to
6 you, you would have a duty to investigate?

7 A. Yes.

8 Q. Okay. Now, did that threat happen in the
9 workplace?

10 A. No.

11 Q. But it would affect the workplace, correct?

12 MR. PRYOR: Objection, leading.

13 THE WITNESS: Correct.

14 THE COURT: Sustained.

15 MR. GREENFIELD: I will move on, your
16 Honor.

17 BY MR. GREENFIELD:

18 Q. What is your understanding -- and I'm not
19 calling for a legal conclusion here -- but what is
20 your understanding legally could occur if you didn't
21 investigate an employee of Southwest Airlines's
22 legitimate complaint?

23 MR. PRYOR: Object, lack of foundation,
24 especially given that he says he is not a lawyer
25 every time I asked a question.

1 THE COURT: I'll allow it.

2 BY MR. GREENFIELD:

3 Q. Would you like me to ask it again?

4 A. Yes, please.

5 Q. What is your understanding legally could occur
6 if you didn't investigate an employee legitimate
7 complaint?

8 A. I would be held --

9 MR. PRYOR: Objection, lack of foundation.

10 THE COURT: I'll allow it.

11 BY MR. GREENFIELD:

12 Q. Would you like me to ask it again, sir?

13 A. No. I would be held responsible for not
14 following through and investigating something that
15 could be a violation of one of our policies.

16 Q. Is it your brief that that could open up the
17 company to liability?

18 A. Yes.

19 MR. PRYOR: Object, leading.

20 THE COURT: Sustained.

21 BY MR. GREENFIELD:

22 Q. And Ms. Stone does not give up her rights as a
23 flight attendant when she -- or as an employee of
24 Southwest Airlines when she becomes president of the
25 Union, does she?

1 MR. PRYOR: Object, leading.

2 THE COURT: Hold on.

3 MR. GREENFIELD: I'm asking whether she
4 does or not.

5 THE COURT: Hold on. Yes, I will sustain
6 that.

7 BY MR. GREENFIELD:

8 Q. Do you know whether Ms. Stone gives up her
9 right as a flight attendant, an employee of
10 Southwest Airlines, when she becomes a union
11 president?

12 A. She does not.

13 Q. And in fact, at that time period, are you aware
14 whether or not Ms. Stone, the president of the Union
15 at that time, actually had a requirement to fly?
16 Did you know whether or not she had that or not?

17 MR. PRYOR: Object, lack of foundation.

18 THE COURT: I'll allow it.

19 THE WITNESS: I do not know that for sure.

20 BY MR. GREENFIELD:

21 Q. At any point in your tenure at Southwest, are
22 you aware of whether presidents had a flying
23 requirement during their term?

24 A. Yes.

25 Q. Does that help refresh your recollection as to

1 whether Ms. Stone had that requirement?

2 A. She did. I just don't know the requirement,
3 hour or days.

4 Q. You don't know the specificity?

5 A. Correct.

6 Q. But you do understand that she did have a
7 requirement to fly during that time period?

8 A. Yes, she did.

9 Q. Back to your duty to investigate.

10 Did Audrey Stone's complaint trigger your duty
11 to investigate?

12 A. Yes.

13 MR. GREENFIELD: Can you pull up Exhibit
14 89? The next page.

15 BY MR. GREENFIELD:

16 Q. Now, if you look down the page, there is a line
17 that says -- and correct me if I read this wrong --
18 Ed, do you have a note taker?

19 Do you see where I'm at?

20 A. Yes.

21 Q. Okay. And what is your response?

22 A. Yes, it is Janet Ray.

23 Q. So these aren't actually your notes, correct?

24 A. She took the notes and transcribed them and
25 then sent them to me, and I verified that they were

1 the correct notes.

2 Q. But you didn't take these notes down, did you?

3 A. Correct.

4 Q. Okay. And are you aware that Ms. Stone
5 testified that she thought there were errors in the
6 notes taken in this document? Are you aware of
7 that?

8 MR. PRYOR: Object, lack of foundation.
9 He obviously is subject to the rule and would not be
10 aware of that.

11 THE COURT: Sustained.

12 MR. PRYOR: Also mischaracterizes what the
13 testimony was.

14 THE COURT: I have already ruled on your
15 first objection, so you can ask a new question.

16 BY MR. GREENFIELD:

17 Q. Would you be surprised if Ms. Stone disagreed
18 with the contents of these notes?

19 MR. PRYOR: Object, lack of foundation.
20 Object to the relevance of his surprise at Ms. Stone
21 realizing that this information came out.

22 THE COURT: I'll allow it.

23 THE WITNESS: Yes.

24 BY MR. GREENFIELD:

25 Q. That would surprise you?

1 A. Yes.

2 Q. Now, is it fair to say that what we are looking
3 at is a Southwest Airlines record of notes taken,
4 not by you, from words spoken by Audrey Stone that
5 you are now being asked to testify about, is that
6 fair?

7 MR. PRYOR: Objection, asked and answered.

8 THE WITNESS: Yes.

9 MR. GREENFIELD: I don't believe I have
10 asked that question.

11 THE COURT: Hold on.

12 I'll allow that.

13 BY MR. GREENFIELD:

14 Q. Mr. Schneider, does this sound a little bit
15 like the telephone game to you?

16 A. It does, yes.

17 Q. I would like to move on to your decision to
18 terminate Charlene Carter.

19 A. Okay.

20 Q. Do you believe that your decision was
21 heavy-handed?

22 A. Yes. Definitely.

23 Q. And in fact, the company walked back from that
24 decision, isn't that correct?

25 A. What does that mean?

1 MR. PRYOR: Leading.

2 THE COURT: Sustained. Ask a new
3 question.

4 MR. GREENFIELD: Yes, your Honor.

5 BY MR. GREENFIELD:

6 Q. Is it your understanding that the company
7 reduced the punishment to Ms. Carter?

8 MR. PRYOR: Still object to lack of
9 foundation and leading.

10 MR. GREENFIELD: I'm asking if it is his
11 understanding.

12 THE COURT: I'll allow this.

13 THE WITNESS: I didn't know it was
14 reduced.

15 MR. PRYOR: Hang on. Your Honor, may I
16 approach?

17 THE COURT: You may.

18 (Thereupon, the following proceedings were
19 had at sidebar:)

20 THE COURT: Last chance, Step 2.

21 MR. PRYOR: Your Honor, I now understand
22 what he's asking. I object on the last chance
23 letter as not being proper mitigation because it was
24 not unfettered. She had to give up rights, and,
25 therefore, it cannot be mitigation.

1 MR. GREENFIELD: I'm not asking for
2 purposes of mitigation.

3 MR. PRYOR: Well, okay. Then it is very
4 prejudicial.

5 MR. GREENFIELD: Well, it goes to the DFR
6 claim. It goes to what the Union has done to
7 represent. And so if -- the Union believes -- the
8 Union argued and represented Ms. Carter at those
9 Step 2 hearings and got that termination reduced to
10 a 30-day suspension.

11 MR. PRYOR: That is absolutely false.
12 Mike Sims testified he made that decision unfettered
13 on his own without anyone consulting him or him
14 thinking --

15 THE COURT: We're too loud.

16 MR. PRYOR: -- it was him.

17 MR. GREENFIELD: It was a product of union
18 -- the offer was a product --

19 MR. PRYOR: Put on some evidence, then,
20 because that is not what Mr. Sims said. That letter
21 is inappropriate --

22 MR. GREENFIELD: Mr. Sims has not
23 testified about it.

24 MR. ENIS: I know. You have no
25 foundation.

1 THE COURT: So what I will say is, I
2 address in writing why I think it goes to
3 mitigation, why mitigation is a question for the
4 jury, not a question for me. And I think I agreed
5 earlier that a jury could see maybe it is not
6 mitigation. But that is up to them, not up to me.

7 The question now is, is you are saying it
8 is not for mitigation, because mitigation is really
9 your thing.

10 Then where are we at? That is what I'm
11 trying to figure out.

12 MR. GREENFIELD: Well, I still think it
13 goes to the DFR claims. I don't disagree that the
14 termination potentially -- the Union doesn't
15 necessarily agree.

16 THE COURT: You are claiming a DFR, that
17 it is turning her in? Is there any other factual
18 basis for the DFR claim?

19 MR. PRYOR: For the DFR claim?

20 THE COURT: Right.

21 MR. PRYOR: Yes. They reported her.

22 THE COURT: And that is what I said.

23 My question was, is there anything else?
24 Because if your only argument for the DFR claim is
25 they reported her, anything after reporting her, I'm

1 not sure is relevant.

2 MR. PRYOR: Well, can --

3 THE COURT: If it was another purpose,
4 another way. I know mitigation is another purpose,
5 if you are telling me this is. I don't see how that
6 is relevant to the DFR claims.

7 MR. GREENFIELD: Well, it goes -- they
8 want to say that is the -- I'll wait.

9 MR. PRYOR: Excuse me. I'll just listen,
10 and he probably can respond better than me. Sorry,
11 your Honor.

12 MR. GREENFIELD: Our duty of fair
13 representation, whether we -- that goes -- factors
14 into. It is a built-in. The entire thing is a
15 collective bargaining checks and balance system.

16 Even if Ms. Stone turned her in, the
17 actions of the Union were to fight for her to get
18 her job back. It is a built-in checks and balances
19 system, and that goes directly to the DFR claim.

20 MR. GILLIAM: It's incorrect, your Honor.
21 It's totally irrelevant. The duty of fair
22 representation violation allegation in this case is
23 the fact that Ms. Stone turned her in, in the first
24 place.

25 MR. GREENFIELD: Your Honor, you have

1 already ruled on your motion in limine that the
2 fact-finding meeting -- our representation at the
3 fact-finding meeting, at the Step 2 hearing are
4 already relevant. You have already ruled on that.

5 MR. PRYOR: That is not what he's
6 offering.

7 THE COURT: Okay. Let's call our break.
8 And I need to go back and refresh. You need to
9 point me to in the amended limine order that
10 controls the case, the page.

11 So can you go do that before we break?
12 And I'm going to look for that, too. Anyone who
13 finds it, let me know.

14 I know what I said on mitigation. I don't
15 know what I said on DFR and the timeline post
16 reporting. Does that make sense?

17 MR. GREENFIELD: We may be able to
18 shortcut this.

19 THE COURT: What's that?

20 MR. GREENFIELD: Can I ask Mr. Schneider
21 whether or not he's aware of the reduction from a
22 termination to a 30-day suspension? And I will move
23 on after that.

24 MR. PRYOR: I have no objection to that
25 being asked outside the presence of the jury.

1 THE COURT: Okay. Well, here's the thing,
2 we are going to kick the jury out for the break.
3 You can ask him that question, just to see if we
4 still need to look up the amended limine order and
5 we can do it. Understood?

6 So jury goes out. You ask that question.
7 And then we kick him off the stand. And then we
8 figure out where in the limine order we need to look
9 at, if we need to look at it.

10 MR. GREENFIELD: Yes, your Honor.
11 Understood.

12 (Thereupon, the sidebar was concluded and
13 the following proceedings were held in open
14 court:)

15 THE COURT: Okay. We are going to take
16 our break because we have got to track down a legal
17 issue. So first break is going to happen now.
18 Let's come back at 2:30, 11 minutes.

19 So same three instructions; you can only
20 talk to your fellow jurors and court personnel,
21 don't talk to anyone else, and don't do any research
22 about the case. We will see you at 2:30.

23 All rise.

24 (The jurors exited the courtroom.)

25 THE COURT: Hold on, Mr. Schneider. We

1 need to ask him one more question while the jury is
2 out before he takes his break.

3 So, Mr. Pryor, you can go ahead and ask
4 from counsel table -- or, sorry, it is you,
5 Mr. Greenfield, the question you wanted to ask him.

6 MR. GREENFIELD: Yes.

7 ^P R O F F E R

8 BY MR. GREENFIELD:

9 Q. Are you aware of whether Ms. Carter's
10 termination was reduced to a 30-day suspension?

11 A. I know that it was offered.

12 MR. GREENFIELD: Okay.

13 Your Honor, is that an acceptable question
14 to ask? Or is there an objection to that question?

15 MR. PRYOR: He said he's not aware of it.

16 THE COURT: Well, I think that is a
17 question for him.

18 MR. HILL: It was offered.

19 MR. PRYOR: What was the question?

20 MR. HILL: It was offered, but not
21 accepted.

22 THE COURT: The answer was, it was
23 offered, not accepted.

24 MR. HILL: Are you aware that she was
25 offered a reduction to the 30-day suspension?

1 MR. PRYOR: And what was his answer?

2 THE COURT: It was offered, not accepted.

3 MR. PRYOR: So he's aware of it?

4 THE COURT: Yes.

5 MR. PRYOR: Okay.

6 THE COURT: So I think you can take your
7 break now. And then we still have to talk after you
8 leave the courtroom.

9 (The witness exited the courtroom.)

10 THE COURT: Okay. So he's out of the
11 room. So the question is, do we still need to track
12 down the limine ruling?

13 So what is your position now,
14 Mr. Greenfield?

15 MR. GREENFIELD: I haven't be able to find
16 it or looked for it in this time period.

17 But if I also may expand the relevancy
18 argument?

19 THE COURT: You can say whatever you want
20 to at this point.

21 MR. GREENFIELD: Sure. The plaintiffs
22 have consistently held that a conspiracy exists
23 between the parties, and that the Union worked with
24 Southwest Airlines to facilitate the termination of
25 Charlene Carter. Okay?

1 To be able to attack their theme of the
2 case, we need to be able to show the efforts the
3 Union made and the steps it went through to show
4 that this isn't a conspiracy, which includes us
5 working on her behalf to get this last chance
6 agreement.

7 THE COURT: Understood. I will look at
8 the limine ruling. I will consider that argument.

9 Anything that y'all want to say?

10 MR. GILLIAM: Can we have a response to
11 that?

12 THE COURT: Yes.

13 MR. GILLIAM: Okay. That is not the
14 theory of the case at all. We allege a duty of fair
15 representation violation against the Union; we
16 represent an NRLA retaliation claim against the
17 Union, and a Title VII violation carried against the
18 Union. We don't allege any sort of conspiracy
19 theory.

20 What we allege is that the Union violated
21 the duty of fair representation when Local 556
22 President, Audrey Stone, turned in Ms. Carter and
23 tried to get her fired. That is the basic theory of
24 the case. The Union's representation after that is
25 totally irrelevant.

1 MR. GREENFIELD: Your Honor, if I could
2 add a stipulation to that, please, because they have
3 spent days putting on testimony that they think
4 union members are cozying up to Southwest Airlines.
5 That is their -- that is what they --

6 MR. GILLIAM: No. Our theory is that
7 union -- is that union actors are turning in other
8 flight attendants, their opponents, union officers,
9 and their agents are turning in --

10 MR. GREENFIELD: And working with
11 Southwest Airlines.

12 THE COURT: I understand.

13 MR. GILLIAM: That evidence is limited.

14 MR. GREENFIELD: There's been three days'
15 worth of evidence on it.

16 THE COURT: I will look at it over the
17 break. I do remember telling at one point,
18 Mr. Pryor, he couldn't get into evidence and he
19 said, I can't claim collusion? And my thought that
20 I didn't say on the record is, it is not a criminal
21 case with a conspiracy allegation. But I need to
22 think about it more, right?

23 MR. McKEEBY: But I would also ask that
24 you think about it when you listen to the testimony
25 of the next witness and my objection to her

1 testimony, Ms. Lacore.

2 THE COURT: Ms. Lacore?

3 MR. McKEEBY: It will just be a preview.

4 THE COURT: Understood.

5 MR. GREENFIELD: Even something they put
6 on with Brian Talburt, they even talked about
7 conspiracy with that witness, that they played for
8 the jury yesterday.

9 THE COURT: So we now have a six-minute
10 break. I will see y'all back here in six minutes.

11 THE COURT SECURITY OFFICER: All rise.

12 (Recess.)

13 THE COURT SECURITY OFFICER: All rise.

14 THE COURT: Okay. Limine ruling, first
15 full paragraph of page 3 of the second amended
16 limine order. We have had so much flying around, it
17 is hard to remember.

18 Okay. So we are talking about the
19 arbitration proceedings, but last chance Step 2 are
20 still in the same bucket in my mind.

21 So the fact of Carter's representation
22 and -- by Local 556 and Local 556 being able to
23 negotiate a last chance agreement are relevant, at
24 least to Carter's duty of fair representation claim.

25 So I adopted your argument that you made.

1 I haven't seen a reason to change that argument. So
2 I'm letting you ask that question.

3 MR. GREENFIELD: Thank you, your Honor.

4 MR. PRYOR: And, your Honor, to make our
5 record, when he asks the question, I would like to,
6 the first time, fully state in a sidebar all of our
7 issues, in addition to what we have said in the
8 limine, and ask for a running objection.

9 THE COURT: Okay. So I have no problem
10 with that, but how about state it now. We're on the
11 record. Sidebar is the same as here.

12 MR. PRYOR: Well, I'm not an appellate
13 lawyer, but I always kind of feel like there has got
14 to be a question pending in front of a jury that I
15 object to. But if the Court is instructing me that
16 you want me to do it this way, I will do it this
17 way.

18 THE COURT: Well, I mean, if we can do it
19 that way. So that is the entire premise of our
20 morning session, right? Everything we do in the
21 morning session is a relayed-back principle.

22 But if you want to wait for a question and
23 then come over to sidebar, we can do that.

24 MR. PRYOR: I would appreciate that.

25 THE COURT: That is fine. Let's bring

1 them in.

2 MR. GREENFIELD: Your Honor, if I may, we
3 may be able to shortcut that situation as well. I
4 believe Mr. Pryor has agreed -- and as you have
5 ruled earlier -- that this also certainly pertains
6 to mitigation.

7 Counsel and I work on these directs and
8 crosses together, and my sageful counterparts have
9 entertained me that I have missed part of the boat
10 on that. And it absolutely does pertain to
11 mitigation as well.

12 Our efforts in representing her after her
13 termination should be considered by the jury, in
14 terms of if a jury was to decide to, in theory,
15 penalize us for our actions, we should be -- our
16 actions post termination should be considered.

17 THE COURT: I understand that. Okay. We
18 can bring them in.

19 (The jurors entered the courtroom.)

20 THE COURT: Mr. Greenfield, you can go
21 ahead and approach the podium.

22 Thank you. You can be seated.

23 And, Mr. Greenfield, you can continue.

24 BY MR. GREENFIELD:

25 Q. Mr. Schneider?

1 A. Yes.

2 Q. I will instruct you to not abuse our court
3 reporter's ears with the microphone.

4 A. I'm sorry. She told me to move it away when I
5 stand up. And I move it back, and it creaks.

6 Q. Okay.

7 Before we took our afternoon break, I was
8 asking you about how you felt about your own
9 decision to terminate Ms. Carter.

10 Do you remember those questions?

11 A. Yes, I do.

12 Q. Okay.

13 And do you have any personal knowledge about
14 whether Southwest Airlines decided to reduce
15 Ms. Carter's termination in any way?

16 MR. PRYOR: Your Honor, we object, ask to
17 approach.

18 THE COURT: You may.

19 (Thereupon, the following proceedings were
20 had at sidebar:)

21 MR. PRYOR: And I realize, while walking
22 up here, this question might be a question early.
23 He's going into the issue -- but I certainly -- I
24 think he's raising the issue of the last chance
25 agreement.

1 Does the Court understand that is what is
2 going on? I want to make sure I'm --

3 THE COURT: I do.

4 MR. PRYOR: Okay. We object to that as
5 settlement discussions. It violates Rule 408. It
6 is prejudicial; it doesn't relate to after acquired
7 evidence; it is not evidence of mitigation. It is
8 not relevant; and for all of the other reasons
9 raised in our motion in limine response or our
10 motion.

11 We would ask the Court for a continuing
12 objection. And if it is okay with the Court, when
13 he actually gets into the meat of it, I might say,
14 same objections we raised before so I get it one
15 more time on the record, make sure I have got it
16 with the right question.

17 And then I will be satisfied with a
18 continuing objection, if the Court permits it.

19 THE COURT: Understood. I will grant you
20 your running objection in the interest of time, and
21 I have put you on a clock.

22 What I will say is I have understood your
23 arguments, and I will overrule them for the reasons
24 stated on page 3 of the limine order, mostly on
25 mitigation and relevance to the DFR.

1 MR. PRYOR: Okay.

2 MR. GREENFIELD: Thank you, your Honor.

3 And may I request that all of this not be taxed
4 against the Union's time?

5 THE COURT: Correct.

6 (Thereupon, the sidebar was concluded and
7 the following proceedings were held in open
8 court:)

9 BY MR. GREENFIELD:

10 Q. Mr. Schneider?

11 THE COURT: Sorry.

12 MR. GREENFIELD: Thank you, your Honor.

13 BY MR. GREENFIELD:

14 Q. Mr. Schneider, just so we are clear and the
15 jury is clear, are you aware or have any personal
16 knowledge of whether Southwest Airlines offered
17 Ms. Carter a reduction from termination to anything
18 else?

19 MR. PRYOR: Your Honor, we object on the
20 running objection we just discussed.

21 THE COURT: I will grant you that running
22 objection and overrule it. You can answer the
23 question.

24 THE WITNESS: Yes.

25

1 BY MR. GREENFIELD:

2 Q. And what was that?

3 A. The possibility of coming back to work for
4 Southwest Airlines.

5 Q. Was she offered a suspension?

6 A. I believe it did include a suspension.

7 Q. And based on the timing of efforts, would that
8 have been essentially a time served suspension?

9 A. Yes, it would have.

10 Q. So if Ms. Carter would have accepted that, she
11 could have returned to work the very next day. Is
12 that --

13 MR. PRYOR: Object, leading.

14 THE COURT: Yes.

15 I'll allow it.

16 THE WITNESS: Yes, I did.

17 BY MR. GREENFIELD:

18 Q. Would she have been able to return to work the
19 very next day?

20 A. Yes.

21 Q. Mr. Schneider, are you an attorney?

22 A. No.

23 Q. Do you understand the intricacy laws of Title
24 VII, Discrimination, Civil Rights Act of 1964?

25 A. Basically.

1 Q. Okay. What are your basic understandings?

2 A. That everyone is afforded equal rights,
3 especially in employment and different --

4 Q. Okay. Would you consider yourself an expert on
5 that matter?

6 A. No.

7 Q. I don't envy you, I think your job is tough.

8 Do you think you have ever made any mistakes in
9 the workplace?

10 A. I'm sure I have.

11 Q. In this matter and investigating these claims,
12 did you give your best efforts?

13 A. Absolutely, yes.

14 Q. Okay. I would like to completely focus on this
15 decision to terminate.

16 Does the Union have any power to control your
17 investigation leading up to the termination?

18 A. No.

19 Q. What would you say if the Union tried to do
20 that?

21 A. I would let them know that it is my
22 responsibility to investigate this, and I don't need
23 their assistance to do so.

24 Q. Did that happen in the case of Charlene Carter?

25 A. No.

1 Q. Did the Union influence your decision in any
2 way to terminate Ms. Carter?

3 A. No. Not at all.

4 Q. So this was solely the decision of Southwest
5 Airlines?

6 A. Yes.

7 Q. And for clarity's sake, you believe Ms. Stone's
8 complaint to be a legitimate one, yes?

9 MR. PRYOR: Object, leading.

10 THE WITNESS: Yes.

11 BY MR. GREENFIELD:

12 Q. That you had a duty to investigate?

13 THE COURT: Hold on.

14 MR. PRYOR: Object to leading.

15 THE COURT: Sustained.

16 You need to ask a new question.

17 BY MR. GREENFIELD:

18 Q. That you had a duty to investigate?

19 A. Yes.

20 MR. GREENFIELD: Give me one moment.

21 We pass the witness, your Honor.

22 THE COURT: All right. Round two,
23 Mr. Pryor.

24 MR. PRYOR: Nothing further, your Honor.

25 THE COURT: Okay. So you are excused as a

1 witness for now, but we will need your testimony
2 when Southwest calls its case. So I'm going to ask
3 you to still not talk to anyone about the case in
4 the meantime because you will be back as a witness
5 again. We know it.

6 With that, you can leave the courtroom.
7 You are free to go. Thank you for your testimony.

8 MR. McKEEBY: Your Honor, can I have a
9 sidebar?

10 THE COURT: You may have a sidebar.

11 (The witness exited the courtroom.)

12 (Thereupon, the following proceedings were
13 had at sidebar:)

14 MR. McKEEBY: There is no prohibition on
15 my talking to them, is there?

16 THE COURT: So, yeah, we should talk
17 through that. So if I know you are going to call
18 him back, but he's left the witness stand, is he
19 still under orders to not talk?

20 I think I -- well, so I know I have
21 authority, even in a criminal case, for someone who
22 is a holdover witness on the stand to not talk to
23 anyone.

24 What I don't know is for what reason is he
25 going to be recalled?

1 MR. McKEEBY: He's just any other witness
2 in my case. I can talk to -- there's no -- I can
3 talk to him. There's no rule preventing --

4 THE COURT: How about this: Can you have
5 someone give me a case on it? I'm assuming you are
6 right, but before I change my instruction, I would
7 like to know. If you can find me a case, then I
8 will lift the instruction by the end of the day.

9 Does that make sense?

10 MR. PRYOR: I have the same issue, by the
11 way. I'm going to put Ms. Carter on. I don't think
12 we are going to finish her today.

13 MR. McKEEBY: Absolutely, you can talk to
14 her.

15 THE COURT: Well, actually, no, if someone
16 is a holdover on the stand --

17 MR. PRYOR: So I lose no matter what.

18 THE COURT: Well, and that is what I told
19 Schneider, right? Last night and what I told two
20 different witnesses.

21 The question is, if you hold over because
22 you have left the stand that another witness is on,
23 are you then under a duty to not talk about the
24 case?

25 MR. PRYOR: I guess I'm not seeing the

1 distinction, but I look forward to seeing the case,
2 see what it says.

3 THE COURT: So all this to say, I won't
4 lift the instruction yet. Send me a case, and I'm
5 happy to lift it by the end day. Assuming I'm
6 wrong, once a witness leaves the stand that you know
7 will return, they're no longer under a duty to not
8 talk about it.

9 MR. GREENFIELD: Your Honor, just for my
10 own clarification, I just don't understand the basis
11 of why --

12 MR. PRYOR: It is the rule.

13 MR. GREENFIELD: What rule?

14 MR. PRYOR: Invoking the rule. Once you
15 take the stand in a case, you can't talk to anyone
16 about their testimony.

17 THE COURT: Talking to your lawyer, and
18 your lawyer tells you everything that every other
19 thing a witness said.

20 MR. GREENFIELD: Well, he's allowed to
21 cross-examine on it, if they spoke during the break;
22 not the advice that was given, but he can ask them
23 that. And that's persuasive -- I'm just not aware
24 of --

25 MR. PRYOR: It's a different issue.

1 THE COURT: The Supreme Court has said
2 that once a witness takes the stand, they are a ward
3 of the court, of me. I can make them sleep at my
4 house, if I want to, to make even a criminal
5 defendant who has the express Fifth Amendment right
6 to counsel.

7 And so your question needs to get informed
8 by the Supreme Court case. But that may not hold
9 true if someone is excused as a witness for now, but
10 we will need him back, right? Another witness is on
11 the stand.

12 So I'm saying, I don't know that case.
13 There may be an exception to the Supreme Court's
14 ward of the court --

15 MR. GREENFIELD: This is just my -- this
16 is just my decency. I'm just trying -- I just -- I
17 literally --

18 MR. PRYOR: I never had this. This is
19 interesting.

20 THE COURT: I get that you can
21 cross-examine on it, but is he still a ward of the
22 court when we know he's coming back, but another
23 witness is on the stand? I don't know.

24 So leave my ruling in place for now, but
25 I'm happy to have any authority to talk me out it.

1 Does that make sense? I'm happy to have
2 any authority --

3 MR. PRYOR: No, this is fascinating -- no,
4 no, I think she obviously can.

5 THE COURT: I had to research it for a
6 criminal case.

7 MR. PRYOR: But I would like some
8 clarification by the end of the day, but it is
9 interesting, and I'm glad this is on Southwest's
10 time.

11 THE COURT: I'm going to put it on my time
12 because I genuinely don't know.

13 MR. PRYOR: As long as it's not mine, I
14 don't care.

15 THE COURT: I'm professing ignorance.
16 Okay.

17 MR. McKEEBY: So in terms of the process,
18 you want a briefing or just --

19 THE COURT: Can you just send me a case
20 and a parenthetical over email to Mr. Frye and
21 Ms. Silver? That's great.

22 MR. GREENFIELD: Okay.

23 THE COURT: You don't need to do a brief,
24 but just send me a case and a parenthetical.

25 MR. PRYOR: I can ask Matt to look for a

1 case.

2 THE COURT: Okay. So we are done with
3 this witness. Are you calling -- who are you
4 calling next?

5 MR. PRYOR: Ms. Lacore.

6 THE COURT: Okay. Go for it.

7 (Thereupon, the sidebar was concluded and
8 the following proceedings were held in open
9 court:)

10 MR. PRYOR: Your Honor, at this time,
11 Ms. Carter calls Sonya Lacore.

12 THE COURT: Okay. You may do so. We can
13 bring her in.

14 (The witness entered the courtroom.)

15 THE COURT: Hello, Ms. Lacore. You can
16 come on up, and the witness box is over here.

17 Before you sit down, I'm going to ask you
18 to raise your right hand, and Mr. Frye is going to
19 swear you in.

20 (SONIA LACOUR was duly sworn by the
21 Clerk.)

22 THE COURT: Okay. You can take a seat
23 now.

24 And you can come on up, Mr. Pryor.

25 And so I will just ask you, Ms. Lacore and

1 Mr. Pryor, if y'all can keep some separation between
2 his questions and your answers, and answers and
3 questions, so if there are any objections, I can
4 rule on those before you answer.

5 THE WITNESS: Okay.

6 THE COURT: You can proceed, Mr. Pryor.

7 DIRECT EXAMINATION

8 BY MR. PRYOR:

9 Q. Good afternoon, Ms. Lacore.

10 Would you state your name for the record?

11 A. Sonya Lacore.

12 Q. How are you employed?

13 A. I work for Southwest Airlines.

14 Q. Can you identify Exhibit 141, previously
15 admitted into evidence? It will be on the screen in
16 just a minute.

17 A. And where is the screen? Oh.

18 Q. Can you identify this document as an email at
19 the bottom that you received from Brian Talburt?

20 A. Yes.

21 Q. What was your position with Southwest Airlines
22 at the time this email was sent to you?

23 A. I believe at that time I was the senior
24 director of the strategy for in-flight.

25 Q. This was sent to your personal email address?

1 A. Yes, it appears so.

2 Q. Did you understand the Casper referred to in
3 this email was an opponent of the Union leadership
4 of Audrey Stone?

5 MR. McKEEBY: Your Honor, this is, I
6 think, in evidence, but with the limiting
7 instruction, which I would ask the Court repeat.

8 THE COURT: Yes. Okay. So I let in this
9 exhibit with the limiting instruction that is for
10 use in the claims against the union, not in the
11 claims against Southwest.

12 Okay. So you can reask that question so
13 she remembers what it is, Mr. Pryor.

14 BY MR. PRYOR:

15 Q. I will restate it.

16 Mr. Casper was someone that Mr. Talburt viewed
17 as an opponent of the Union he supported?

18 A. I really don't recall that. I'm guessing that
19 that is what he was thinking, but I'm not sure.
20 This was a long time ago.

21 Q. We went over this in your deposition. You
22 recalled the context of this. He was complaining
23 about another union member, right?

24 A. Yes.

25 Q. And you also understand he was warning you

1 about Ms. Corliss, true?

2 A. I understand that is what he's saying in this
3 email.

4 Q. And you understood Ms. Corliss to be an
5 African-American potential leader of the Union,
6 true? Based on what he's telling you?

7 A. I know that is what he was telling me. I
8 didn't understand that she would be a potential
9 union leader at that time.

10 Q. You did not respond in writing to this email,
11 true?

12 A. I don't remember if I did. I don't -- I don't
13 know.

14 Q. You have not gone back and looked?

15 A. No, sir. I don't use this email address at
16 all.

17 Q. You did not bring any charges against
18 Mr. Talburt or otherwise complain about him to the
19 company?

20 A. Not in this instance, no, sir.

21 Q. And when you received a copy of Audrey Stone's
22 complaint against Ms. Carter, did you inform anyone
23 of the communications that you had received about
24 using social media policy to target union opponents?

25 A. I don't recall.

1 Q. Is that the kind of thing you would forget?

2 A. I have a lot of emails that come my way, so it
3 is possible I would forget.

4 MR. PRYOR: Your Honor, we move for the
5 admission of Exhibit 148.

6 MR. HILL: 138, sorry.

7 MR. PRYOR: I'm sorry, 138.

8 THE COURT: 138. All right. I will ask
9 if there are any objections on 138.

10 MR. McKEEBY: No objection.

11 THE COURT: All right. Any from the
12 Union?

13 MR. GREENFIELD: On 138?

14 THE COURT: 138.

15 MR. GREENFIELD: No, your Honor.

16 THE COURT: All right. 138 is in, we will
17 publish.

18 (The referred-to document was admitted in
19 Evidence as Plaintiff's Exhibit 138.)

20 MR. PRYOR: Pass the witness.

21 THE COURT: Southwest.

22 MR. McKEEBY: Can you pull up 141?

23 CROSS-EXAMINATION

24 BY MR. McKEEBY:

25 Q. Ms. Lacore, did you take any action in

1 connection with the email sent to you by
2 Mr. Talburt?

3 MR. PRYOR: Object, asked and answered.

4 THE COURT: He can ask it.

5 THE WITNESS: I don't recall.

6 BY MR. McKEEBY:

7 Q. Who is Mr. Talburt?

8 A. A Phoenix flight attendant.

9 Q. And is he someone with whom you communicated on
10 occasion?

11 A. Yes, sir, on occasion. He would -- actually,
12 frequently, write to many of us at Southwest.

13 Q. And can you generally describe the topics that
14 he would communicate with you about?

15 A. Brian, he was passionate about a lot of topics.
16 So it could be anything from how upset he was about
17 crew scheduling, other people, how he didn't think
18 we were doing a good job as leaders.

19 So it was a variety of topics. And again,
20 frequent.

21 Q. Would he ever contact you via text message?

22 A. Yes, he did.

23 Q. About the same type of topics?

24 A. Yes, sir.

25 Q. Did you ever take any action to prevent him

1 from contacting you via text message?

2 A. I did.

3 It became excessive. And I -- and overly
4 passionate. And so I let him know that he could
5 communicate with me via company email in a
6 professional manner, and I blocked him from my text.

7 Q. You blocked him from your -- I'm sorry, I
8 didn't hear --

9 A. From my text. From my phone.

10 Q. Ms. Lacore, did you have any involvement in the
11 decision to terminate Ms. Carter's employment?

12 A. No, I did not.

13 Q. Were you consulted in connection with that
14 decision?

15 A. I was told afterwards with the letter.

16 Q. You were copied on the letter?

17 A. Copied on -- yes, sir.

18 Q. And when you say "the letter," you mean the
19 termination letter?

20 A. That's correct.

21 Q. Did you -- were you engaged in the
22 investigation of Ms. Stone's complaint about
23 Ms. Carter?

24 A. No, sir, I was not.

25 MR. McKEEBY: No further questions.

1 THE COURT: Mr. Greenfield.

2 ^CROSS-EXAMINATION

3 BY MR. GREENFIELD:

4 Q. Ms. Lacore, hi. I'm Adam Greenfield, and I
5 represent the Union.

6 Do you understand who I am?

7 A. I do.

8 Q. You said you played no role in the decision to
9 terminate Ms. Carter, is that correct?

10 A. That is correct.

11 Q. So the Union did not exert any pressure on you
12 to terminate Ms. Carter, did they?

13 A. No, sir.

14 MR. PRYOR: Object, leading.

15 THE COURT: I'll allow it.

16 MR. GREENFIELD: No more questions. Pass
17 the witness.

18 THE COURT: Round two, Mr. Pryor.

19 REDIRECT EXAMINATION

20 BY MR. PRYOR:

21 Q. Did you refer to Mr. Talburt as your pen pal?

22 A. I guess at that time he wrote.

23 We use that term loosely at Southwest if people
24 write us a lot.

25 Q. Is that a yes?

1 A. That would be yes. He was a frequent pen pal
2 at the time.

3 Q. Did you block him after you received the email
4 communication talking about working with Southwest
5 to utilize the social media policy to get rid of
6 Mr. Casper and Ms. Corliss?

7 A. I blocked him after he wrote a really rude,
8 vile text to me, and it was not related to that.

9 Q. So how long after you received the one where
10 he's talking about getting rid of these people did
11 you block him?

12 A. I don't recall.

13 Q. It was years, wasn't it?

14 A. I don't recall.

15 Q. Okay. And Audrey Stone spoke to you about her
16 complaint against Ms. Carter, correct?

17 A. She mentioned it in passing.

18 Q. Okay.

19 MR. PRYOR: Thank you.

20 THE COURT: Round two, Mr. McKeeby.

21 MR. MCKEEBY: No round two.

22 THE COURT: Round two?

23 MR. GREENFIELD: No, your Honor.

24 THE COURT: Okay. That means no round
25 three.

1 Okay. So that means you are excused as a
2 witness, so thank you for your testimony. Thank you
3 for coming in. You can leave the courtroom.

4 THE WITNESS: Thank you.

5 (The witness exited the courtroom.)

6 THE COURT: Okay. Next witness,
7 Mr. Pryor.

8 MR. PRYOR: Your Honor, at this time we
9 call Charlene Carter.

10 THE COURT: Okay. Ms. Carter, you can
11 take the stand. And we will have you raise your
12 right hand and take the oath while you are en route.
13 You know the routine.

14 (CHARLENE CARTER was duly sworn by the
15 Clerk.)

16 THE COURT: Okay. You can take a seat and
17 remember my request for space between questions and
18 answers. You can proceed, Mr. Pryor.

19 DIRECT EXAMINATION

20 BY MR. PRYOR:

21 Q. Good afternoon.

22 A. Hello. Sorry.

23 Q. And would you state your name for the jury.

24 A. Yes. My name is Charlene Carter.

25 Q. Would you tell the jury a little bit about

1 yourself today, married, kids, whatever?

2 A. Yeah. Well, I will start back, I'm from --
3 originally from California. I was born there, and
4 moved to Texas when I was 12.

5 Q. Okay. I'm going to stop you, because that is
6 not -- I meant today.

7 Are you married -- are you married with kids?
8 Don't go back to your beginning life.

9 A. Oh, I'm sorry. Yes, I'm married, and I have
10 two beautiful children.

11 Q. Okay. And a grandchild?

12 A. I do.

13 Q. Okay. All right.

14 So I am going to ask you about your background,
15 and specifically as it relates to your religious
16 beliefs because those are at issue here, do you
17 understand?

18 A. Yes.

19 Q. Okay.

20 And let's go back now, then, to -- boy -- I'm
21 going to ask when you were born because it -- I want
22 to be able to tie an age to it, if you are okay with
23 that?

24 A. I'm fine with that.

25 Q. Okay. So where were you born, when you were

1 born?

2 A. I was born in Burbank, California, in 1965.

3 Q. Okay. And tell us about your parents.

4 A. My parents were both born there in California.

5 My dad was kind of abusive. My mom, she held

6 everything together. She worked real hard. She

7 worked from the time I was born. My dad kind of was

8 a free -- I guess what I would say, he didn't really

9 like to work a whole lot. And my mom kind of kept

10 things together.

11 Q. And in terms of your family's faith or beliefs,

12 if they had any as you were growing up in

13 California, what was that?

14 A. Well, we really didn't have faith in the house.

15 My grandmother would take us to church when we were

16 little. She was Catholic. And we would go to, you

17 know, to church like Christmas, Easter, Mother's

18 Day, that kind of thing.

19 But we never -- we never really prayed, or we

20 never had, you know, much religion in our household.

21 Not in my household growing up with my dad in my

22 home. We never had a Bible in the house.

23 Q. Okay. And at some point, did you move from

24 California?

25 A. Yes. My dad finally decided that he was going

1 to start pursuing a career. And when he did, he got
2 transferred to Texas, in the Dallas area.

3 Q. And how old were you then?

4 A. I was 12.

5 Q. And tell us about when you moved to Texas, when
6 you were 12. Did you go to school in Texas? Did
7 you have --

8 A. I did.

9 Q. -- how did that affect your faith?

10 A. We moved to the Corinth area, Lake Dallas area.
11 And I grew up in Lake Dallas High School. I was on
12 drill team.

13 Q. We found that out from --

14 A. Yeah.

15 Q. I don't know if I can mention it, sorry.

16 You were on the drill team, you were going to
17 high school?

18 A. Uh-huh.

19 Q. What was your faith at that time?

20 A. It was still kind of the same. You know, we
21 went to church every now and then, but it was always
22 my mom and my sister and I. It was never my dad.

23 And again, that was usually Christmastime,
24 Easter, Mother's Day, that kind of stuff. It
25 wasn't -- it wasn't a whole lot -- like I said,

1 there wasn't a whole lot of faith in my house, you
2 know, as in there just wasn't.

3 Q. And did you date?

4 A. I did. My last year of my high school, I met a
5 gentleman -- well, I shouldn't call him a
6 gentleman -- a young boy. He had just graduated. I
7 knew of him, I didn't know him, you know,
8 specifically. But we ended up dating, and actually
9 he became my first husband.

10 Q. So we can put a name with that, tell me, what
11 is his first name?

12 A. His name is Dana.

13 Q. Dana?

14 A. Dana, Uh-huh.

15 Q. You dated him in high school. And then what
16 did you do after you graduated high school?

17 A. Well, I graduated early. I wanted out of high
18 school, to be quite honest with you. I was ready to
19 kind of get on with my life.

20 Q. How do you graduate early?

21 A. I had enough credits and I went to summer
22 school.

23 Q. Okay. So you graduated in?

24 A. In January of '83.

25 Q. Okay. And what did you do in January of '83?

1 A. In January of '83 -- well, my parents moved
2 away, basically, at that same point. So they moved
3 to Colorado. My dad got a job in Colorado. And
4 they left between, I would say, January and maybe
5 March is when they, you know, continued or finished
6 their move.

7 And I ended up -- not homeless, but I -- at
8 that time I had two jobs. And I ended up going into
9 and living with my boyfriend's parents.

10 Q. Okay.

11 A. And I was going to school at the time. I had
12 just started college. I was going to TWU, Texas
13 Woman's University.

14 Q. So you were holding down two jobs and that is
15 how you were able to go to TWU?

16 A. Yes. Well, and my grandmother, she had paid
17 for the first semester of school. Yes.

18 Q. What about your parents?

19 A. No. My parents didn't pay for school. They
20 thought that was my responsibility.

21 Q. And then what happens -- by the way, you said
22 you were living with your boyfriend's parents.

23 A. Yes.

24 Q. Did they put a time period on you?

25 A. They did. It was six months. And I found an

1 apartment in Denton. I was living in a little
2 efficiency.

3 I was working at a restaurant, and then I was
4 at a call center in the evening. And it kind of was
5 between the time that I would go to class. Because
6 I had a full-time schedule at Texas Woman's
7 University at that time. I wanted to become an
8 OB-GYN.

9 Q. And were you living with anyone?

10 A. No, not at that time.

11 Q. Okay.

12 A. Not at that time.

13 Q. So you are living in an efficiency, holding
14 down two jobs, and trying to go to school full time?

15 A. Yes.

16 Q. All right. So how does that work out? What
17 happens?

18 A. It doesn't work out well, because just, you
19 know, trying to keep your grades up and, you know,
20 going back between two jobs, and then I was dating
21 my -- like I said, my boyfriend at that time, and we
22 were pretty serious.

23 We ended up moving in together.

24 Q. When was that? Of this timeline, you started
25 school --

1 A. Yeah, that would have been probably -- it would
2 have been a year. Because I was in his apartment --
3 or, sorry -- his parents' home for six months, and
4 then I lived in my apartment for about six months,
5 and then I moved in with him.

6 Q. So 1984 --

7 A. Yes.

8 Q. -- approximately.

9 And did your parents have a reaction to that?

10 A. My dad did.

11 Q. What?

12 A. He had always told me -- well, first of all, he
13 always told me if I dated a boy and I came home
14 pregnant, to pack my bags and move out.

15 So when he found out that Dana and I were
16 living together -- because I didn't, you know, come
17 right out and tell him that -- when he found out, he
18 didn't really want a whole lot to do with me and he
19 called me a whore.

20 Q. And what did that do in terms of you going to
21 school -- not that, the fact that you are now living
22 with your boyfriend, what happens with going to
23 school?

24 A. Well, going to school kind of had dropped back.
25 And I -- at one point, I just finally quit, because

1 I was trying to help him go to school at the same
2 time, and I was working the two jobs. And
3 eventually, I got pregnant.

4 Q. Tell me about finding out you were pregnant.

5 By the way, were you going to school at the
6 time or was that when you --

7 A. No. This was right after I had dropped out. I
8 had dropped out. I had gone to school almost two
9 years, and I knew I wasn't going to be able to
10 continue to do what I was doing.

11 Q. Did you try not to get pregnant?

12 A. Yeah. I had been on several different birth
13 control pills, and the birth control pills just made
14 me sick. To this day, I still can't take them.

15 Q. And so tell me about finding out you were
16 pregnant.

17 A. Ah, well, I -- I didn't really want to believe
18 that is what it was, but I knew since I had missed.
19 And, you know, went to my doctor, because I started
20 feeling bad, and I was tired, and the whole
21 nine yards. And a friend of mine said, you probably
22 need to go to the doctor.

23 So I went to the doctor and he confirmed it, I
24 was pregnant, and I was about nine-and-a-half to 10
25 weeks pregnant at that time.

1 Q. And so did you contact your parents for
2 assistance?

3 A. No, I did not.

4 Q. Why not?

5 A. I didn't even tell them I was pregnant because
6 I knew that that wasn't going to work. I mean, they
7 never sent me any money anyway. I mean, they
8 weren't paying for anything. When I moved out, I
9 moved out.

10 Q. Who did you reach out to?

11 A. Well, and I didn't even tell Dana for a couple
12 of days. I just -- I couldn't bring myself to doing
13 it, because he was in a fraternity, he was going to
14 school. And I knew that that was one -- you know,
15 something that he did not want -- I mean, he didn't
16 want to get married yet.

17 When I eventually told him, he said that we
18 can't tell -- you know, obviously, I can't tell my
19 parents, and he said, he wasn't going to tell his
20 parents.

21 So and he wasn't going to quit school. And, of
22 course, I didn't want him to quit school. That
23 wasn't, you know, on the radar for me. And there
24 wasn't really anybody to go to for me, so we talked
25 about it. And we argued about it. And finally, I

1 said I would get an abortion.

2 Q. And what did you do to make that happen?

3 A. Back then, you got into the Yellow Pages and
4 you searched out under abortion, basically, or
5 healthcare, I can't even remember. I don't remember
6 that.

7 But I found Planned Parenthood and called them
8 up.

9 Q. And what happened next?

10 A. Ah, within about, I would say, three days,
11 because I was still torn --

12 Q. What were you torn about?

13 A. Going and getting an abortion.

14 Q. What were your religious views at that time, if
15 they played into this?

16 A. At that time I had somewhat -- you know, I
17 believed in God, I knew God was there, I just -- I
18 struggled. I struggled. I was afraid that if I did
19 this, he would hate me and that I would never be
20 forgiven. But I was afraid not to go and do it
21 because -- I just didn't know what to do. I was
22 afraid. And there wasn't the resources back then
23 that there are now. There were just not.

24 Q. And were you looking for information from
25 Planned Parenthood in that regard?

1 A. Yes.

2 Q. What were you looking for?

3 A. To get an abortion.

4 Q. Were you looking for answers to questions?

5 A. Yes, I was.

6 Q. What questions did you have?

7 A. Well, when we walked into Planned Parenthood,
8 they separated my boyfriend and I. And he was in
9 the -- a waiting room. And the lady in the front
10 took me back and I sat in an office with one of the
11 nurses.

12 And -- because I wanted to know, first of all,
13 how far along I really was, because my doctor said I
14 was about 9 to 10 weeks. And, you know, they had --
15 eventually did an examination in there too, and they
16 said that was about right.

17 But before that, I wanted to find out -- again,
18 there wasn't a whole lot back then that you could
19 pull on Internet. We didn't have Internet. This
20 was like 1985, '84, '85.

21 And I asked them, you know, how -- at a
22 10 week, what does it look like? And she said,
23 Well, really and truly, there -- you know, there is
24 not much there, it is -- you know, it is just this
25 little tiny zygote, is what they called it, and, you

1 know, there's -- it is not formed yet.

2 And I asked her, I said, okay, I mean, I know
3 that there is something going on, but she assured me
4 that the baby couldn't feel any pain. And that kind
5 of settled my -- my apprehension, I guess, at that
6 time.

7 Q. Did you get the answers you really wanted to
8 hear at that time?

9 A. Not really. Not really. But I didn't know
10 what to do.

11 Q. Did you find out that those answers turned out
12 not to be accurate?

13 A. Later on, yeah, I did.

14 Q. But at the time, did you then make the decision
15 to go forward with the abortion?

16 A. I did.

17 Q. Did they tell you about whether or not there
18 would be complications?

19 A. No, not really, because we didn't discuss that.
20 I want people to know what goes on in Planned
21 Parenthood. Because Planned Parenthood does not
22 tell you the truth.

23 Q. Okay. Let me just interrupt you -- and I
24 apologize for that, but I want to make sure that we
25 understand, this is your story from your experience.

1 A. Yes.

2 Q. Okay. Go ahead. Tell us.

3 A. So I decided to have this abortion. I went,
4 the lady took me back to the examining room. Put me
5 on the table. Gave me a small sedative.

6 And she said I would start feeling a little bit
7 woozy, you know, just I would still be awake, but it
8 would kind of keep me calm.

9 And then the doctor came in, and he said
10 that -- he kind of explained the situation, what was
11 going to be going on, and he examined me and he
12 said, yeah, you are about 10 weeks along. He could
13 tell. He could tell.

14 And then he told me how the procedure would go.

15 And all I remember was to the left of me was a
16 suctioning container, it was this round machine-type
17 thing.

18 And he said, you won't feel a whole lot because
19 they have numbed me down there and basically kind of
20 dilated me and then started up the suctioning
21 machine.

22 Q. Did you feel it?

23 A. Yeah.

24 Q. Did you feel the baby leave your body?

25 A. I didn't -- it was a lot of pulling and a lot

1 of -- it was quite a bit of pain. But I -- it was
2 kind of like -- I would say if you have really bad
3 monthly cycles, it would be like cramping.

4 Q. And then what?

5 A. Well, I could hear the suctioning machine, and
6 from there it was just -- it took place.

7 And then after that, he had to take something
8 and clean the rest out and make sure he got all of
9 the baby -- the parts out.

10 Q. He had to do what?

11 A. He had to make sure he had everything out.

12 Q. Did he?

13 A. He said he did.

14 Q. Did you see anything?

15 A. No.

16 Q. Did you try to look or did you close your eyes?

17 A. At one point I tried to look, but after what I
18 saw in the suctioning container, I just couldn't do
19 it anymore. I knew what I had done at that point.

20 Q. What did you see?

21 A. A lot of blood and little parts.

22 Q. Parts of what?

23 A. Of a baby.

24 Q. How did you react to that?

25 A. I just started crying. I just started crying.

1 And I knew at that point I had made the worst
2 decision of my life.

3 Q. What happened next?

4 A. They take you back to a room and let you kind
5 of wear down the anesthesia and they kind of make
6 sure that you are, you know, stable enough to go
7 home. I was back there probably, what, 30 minutes,
8 maybe 45 minutes, for the local to kind of wear off.
9 And I started throwing up, bleeding pretty heavily,
10 crying a lot.

11 And then the nurse came back and said, You are
12 ready to go and I'm going to take you up to your
13 boyfriend. And then I went home.

14 Q. After that, were you able to put it behind you?

15 A. No.

16 Q. How so?

17 A. Because I knew I had just made the worst
18 decision of my life, and it was -- I had just taken
19 the life of my little baby.

20 And I went home, and got into an argument with
21 my boyfriend. And a really good friend came over
22 and stayed with me the rest of the night and he went
23 and stayed with his parents. And from there --

24 Q. Was the argument about the abortion?

25 A. Yes.

1 Q. What was the argument?

2 A. It was over. I was angry. I was mad. I was
3 sad. I was disgusted with him, I was disgusted with
4 myself. And I -- I didn't want to see him. I
5 didn't want to be around him anymore. I just
6 didn't -- I couldn't. I didn't want to be around
7 myself at that point.

8 Q. When you left Planned Parenthood, did they tell
9 you whether or not you -- there were any problems
10 with the procedure?

11 A. No. They did not, no.

12 Q. What happens next? You make up with your
13 boyfriend? I'm not trying to lead you.

14 A. No. No. What happened next was, for the
15 next -- well, until he and I got married, I was
16 basically in a very depressive state, angry, didn't
17 like him, didn't like myself. I searched out some
18 counseling. I started searching out churches.

19 Q. How did you feel about your relationship with
20 God after the abortion?

21 A. I thought he basically hated me. And I could
22 see why. I could see why.

23 Q. So what did you do? You told us you got
24 married. Why did you get married?

25 A. So fast forward --

1 Q. Let me interrupt myself.

2 A. That's okay.

3 Q. It sounded like you were mad at your boyfriend,
4 you didn't think he supported you.

5 Why did you marry him?

6 A. We had dated for five years. And we had lived
7 together. And he was my first and only. And how I
8 was raised is, if you sleep with somebody -- and,
9 you know, we had been together five years. I mean,
10 it was basically the next step.

11 And so we were supposed -- we were going to get
12 married.

13 Q. Were you able to put your depression and
14 thoughts about the abortion away on your wedding
15 day?

16 A. No. I knew when I was walking down that aisle
17 that it probably wouldn't last. I was still angry.
18 I was still upset. I was still sad.

19 I was still -- but I, honestly, I just figured
20 since we had been together for five years and we had
21 gone through this, maybe we would, you know, come
22 back to a relationship. I really honestly don't
23 know what I was thinking back then. I made some
24 stupid decisions.

25 Q. Welcome to life.

1 So was your relationship with parents such at
2 that point that you could tell them about the
3 abortion?

4 A. No. I didn't tell me parents until a lot
5 later. And that was after my son was born.

6 Q. Okay. Well, let me -- after you got married,
7 did that help you deal with the depression you were
8 suffering from?

9 A. No. It actually got worse.

10 And so we got married. And then we bought a
11 house. And he was still going to school, still in
12 his fraternity. And I started working a full-time
13 job to help us, you know, get by and so forth and
14 him go to school.

15 About two years into our marriage, I got
16 pregnant again. And that that pregnancy resulted in
17 an ectopic pregnancy.

18 Q. Tell us what that is.

19 A. It is when the baby is forming inside the
20 fallopian tube.

21 And then I went and saw my OB-GYN -- well, go
22 back. The way that I found this out was that I
23 started hemorrhaging.

24 And so they immediately -- when I got to the
25 hospital, they immediately put me in a room. And

1 the doctor came in, and that is when they found out
2 that the baby was in the tube.

3 And later finding out, after I lost that one --
4 because they had to do an emergency surgery to take
5 the baby out of the tube -- he told me that I might
6 lose that one side. That devastated me. I thought,
7 you know, that this was my punishment for having an
8 abortion before that, and that I probably would
9 never have kids.

10 Q. Did the doctor tell you that it had anything to
11 do with your abortion?

12 A. Yes, he did.

13 Q. What?

14 A. He said there was scar tissue down between the
15 fallopian tube going into the uterus.

16 Q. From the abortion?

17 A. Yes.

18 Q. And so now you have lost two children because
19 of your decision to have an abortion in your mind.

20 Are they children to you now?

21 A. Oh, yeah. Yeah. My babies, yes.

22 Q. So how are you dealing with this now?

23 And by the way, tell me how you feel about your
24 relationship with God and your husband and how it
25 affects all of that.

1 A. Well, the husband part, it really -- it started
2 to deteriorate some again.

3 I, for myself, I had to get some help, because
4 I was in a major depression, especially after that
5 one.

6 So like I said, I was -- before that, I was
7 actually seeking churches, I was seeking some
8 counseling. I had found a church in Denton called
9 Denton Bible. I started going there. That started
10 to kind of help because I started meeting some
11 people.

12 But you know, I still wasn't back until -- what
13 helped me was when I finally got pregnant with my
14 son.

15 Q. Tell us about that.

16 A. At that time, I was flying for American
17 Airlines. I was a flight attendant for them. I had
18 gone to work for them and worked in corporate.

19 Q. And was that okay with your husband?

20 A. No. Not -- not the flying part.

21 I had worked in corporate for about a year and
22 a half, and then I decided I wanted to go to
23 in-flight. And so I did.

24 And I was based in New York. And no, my
25 husband did not like that at all.

1 My husband was pretty controlling. He wanted
2 to know where I was all of the time.

3 I basically married my dad.

4 Q. Okay. Did you have to quit that job?

5 A. Yeah, I did. And it was due to the fact that I
6 got pregnant with my son.

7 Q. Okay. And how did that pregnancy go?

8 A. That pregnancy went great.

9 Q. Good. Your son was born.

10 And did that relieve your depression from the
11 abortions -- or the abortion and the second lost
12 child?

13 A. It told me that what I needed to do was -- the
14 depression, yes. It started to go away. But I knew
15 I needed something more. I knew that he had
16 forgiven me, because I had asked for that, for God
17 to forgive me. But I hadn't forgiven myself.

18 So through that time period when my son was
19 little, I still carried that guilt around. And I
20 got closer to God through that time period. And I
21 actually raised my son at church.

22 Q. Did you have an experience at church where you
23 were able to forgive yourself?

24 A. I did. And that is fast forward.

25 Q. I don't want to fast forward. This is your day

1 in court, ma'am. We set aside some time, so I'm not
2 trying to rush you.

3 A. No, I loved being a mom. Loved being a mom.
4 My husband and I, we still had issues, and it had a
5 lot to do with the controlling part and the
6 abortion. I was still angry at him. I didn't let
7 go of the anger for a long time.

8 My husband -- my first husband and I, we got
9 divorced when my son was two.

10 Q. What happens next?

11 A. What happens next is that I actually decided I
12 wanted to fly again. And so I had already applied
13 twice before at Southwest Airlines, and did not get
14 the position.

15 So I decided to try for a third time. And the
16 third time was the charm. And I got on at Southwest
17 in 1996.

18 Q. Okay. And I do want to talk about your
19 Southwest Airlines union activities, and to the
20 extent they overlap here, if you want to talk about
21 that, that is fine.

22 I'm really tracking your -- where you -- your
23 religious faith develops that affects this lawsuit.

24 A. Okay. So I started going to Denton Bible, like
25 I said. And then I found another church, and it was

1 called Fellowship, Fellowship Church in Grapevine.

2 And at the time, it was not very big, so I
3 started taking my son there, and took him to the
4 little kids church and went to the services on
5 Sunday.

6 I found out that there was a women's group, and
7 I started feeling like I needed to get more involved
8 in -- in the church and meeting people and so forth.

9 And at this point, I was also dating someone
10 new. And I wanted -- I wanted that relationship to
11 be more so in a more faith-based relationship.

12 So we started going to church together. And
13 taking my son. And then there was a women's group.
14 The first time that I really stepped out, the whole
15 auditorium was full of women. And Lisa Young, who
16 is Ed Young's wife, she was the one who put this on.

17 And the first speaker was a beautiful young
18 lady, and it was -- the whole subject was on hot
19 topics, what most churches don't discuss.

20 And they felt that this was something that the
21 women's group could do and do a Bible study on.

22 So the first hot topic was on abortion.

23 Q. What happened?

24 A. Well, I couldn't believe it. Because I had
25 been searching -- for me, I couldn't forgive myself.

1 And I knew that in order to follow God and really
2 believe in what he says, you don't just forgive
3 others, you also have to forgive yourself for the
4 things that you have done.

5 And that was what all this particular women's
6 group was about. It was forgiving yourself for the
7 things that you have done in your past that you were
8 ashamed of, and the first one was on abortion.

9 And it floored me on -- when they said, um, if
10 this -- if -- we want all women to stand up if it
11 has affected you, your family, your friends, you
12 personally, or you have just known somebody at work
13 that has had this happen, that they had had an
14 abortion.

15 And the amount of women that stood up in that
16 auditorium, I was like, I'm finally not alone.

17 Q. Did you stand up?

18 A. I did.

19 Q. And what happened next?

20 A. Well, that was -- most of us were crying,
21 because most of us had not ever -- well, a lot of us
22 hadn't, I hadn't, I hadn't really told the story a
23 whole lot. There was only a few of my friends that
24 knew, and then obviously my ex. I hadn't even told
25 my boyfriend now at the time.

1 It was -- it was so real, and how many people
2 it had affected, and how they react. And it -- most
3 of those women had had an abortion that were in my
4 group.

5 So we -- we -- after the main speaker, we all
6 go off into our small Bible groups, okay?

7 Anyway, the six or eight women that were
8 sitting around our table -- or my table, that we
9 were at, I think maybe two, it was just a family
10 member that it had affected or a friend, but the
11 rest of them, they had had an abortion. And we were
12 all about -- not the same age, but pretty close --
13 because I'm 57. And 65, you can do the math. I'm
14 57.

15 And I just couldn't believe how many women it
16 had affected and how they all felt. And what all
17 they went through. And how many, too, in the group
18 could not have children after the fact.

19 And then -- and some family members that had
20 lost women in their family, or, you know, a sister,
21 or whatever, to depression from it. And they took
22 their own life.

23 I -- it was all an experience for me. I had no
24 idea that, you know, that everybody felt like me, I
25 guess.

1 And so for me, on that day, when -- and it was
2 all on forgiveness for yourself.

3 I finally felt like I had been forgiven by God.

4 Q. Did you pray?

5 A. Oh, yeah.

6 Q. Tell me about it.

7 A. And I haven't stopped since.

8 I just asked him, I said, I need to know -- I
9 mean, over the years, I kept saying, I'm so sorry,
10 I'm so sorry, I'm so sorry for what I have done.

11 I have taken, you know, this little baby, I'm
12 praying that he or she is in heaven.

13 I just wanted him to forgive me, but I needed
14 to forgive myself. And if he would just -- I just
15 need to feel like I can move on.

16 And it took a long time, but I just felt him
17 move inside me. And it was, like, God just said, it
18 is done, it is over, it is okay.

19 And I just let go of it from there on out. But
20 I made a promise to him when that happened. And I
21 said -- and this is one of the things that when I
22 was at the group -- I said I will never, ever, if I
23 can help it, let this happen to another young girl,
24 woman ever again, that I will do whatever I can to
25 save another baby in the womb.

1 Q. And what did you do in that regard?

2 A. I got involved in -- it was called -- well, it
3 was a group of ladies that did a whole plethora of
4 things, but one of them was called The Exodus Group.

5 And it was all about women and children, and
6 then abortion. So it was kind of a collective.

7 Q. Were you going out and protesting at Planned
8 Parenthood?

9 A. No, I have never protested at Planned
10 Parenthood.

11 Q. What did Exodus do, and what did you do with
12 Exodus?

13 A. Well, we partnered up with a pregnancy center.
14 It was in -- I want to say it was in Keller. It may
15 have been Grapevine, I can't remember. A small
16 little place.

17 We donated our time, we donated funds, we
18 donated -- and then things for babies, when these
19 young girls or ladies would come in that couldn't
20 afford things for their baby, if they decided they
21 wanted to keep their baby, we helped them.

22 We gave them resources, especially for young
23 moms. And that would have been me. So we had girls
24 anywhere from, I would say, 15 on up.

25 Q. Did you talk to them?

1 A. Yeah. There was a couple of us that would
2 donate our time and actually -- because these girls,
3 a lot of times, they are still torn. They don't
4 know if that is what they want to go and do.

5 So now you can seek out these places. I mean,
6 there are so many avenues now that they can go to
7 instead of just going to a Planned Parenthood or
8 another abortion facility.

9 I'm going to tell you, abortion facilities do
10 not advertise these pregnancy centers.

11 We have actually tried through some
12 organizations to get them to put those things in
13 these abortion facilities, but they refuse.

14 So, yeah, I told them my experience. I told
15 them what I went through. I told them what the
16 experience was like in that room when I had that
17 abortion.

18 I told them, you know, everything that I felt,
19 and you may carry this for the rest of your life.
20 It is going to be something that is going to stay
21 with you forever. It's never going to go away.

22 Q. So girls that, nonetheless, decided to have an
23 abortion, did you still love them?

24 A. Oh, yes. Yes. I mean, I would hope somebody
25 would have loved me then.

1 Q. And even though you think it's taking a life,
2 are you judging them in any way?

3 A. No, I'm not. I'm not judging them.

4 Q. So anything else you want to tell us about your
5 work at Exodus Group?

6 A. It was the most beautiful thing to watch, that
7 these girls that had -- especially the younger
8 ones -- and a lot of them didn't have the support of
9 their families, either.

10 It kind of moved on to other things, though,
11 too. And let me explain that.

12 So not only would we take care of the girls and
13 help them and then prepare them for their little
14 babies, we also had a housing apartment place that
15 we had in Dallas that, through the church and
16 through this pregnancy center, had purchased.

17 And so what they would do is they would
18 actually house these young girls in an apartment and
19 help them get on their feet and help them realize
20 that this isn't the end of their lives.

21 These choices -- even if they gave their babies
22 up, we also helped with placing them with certain
23 adoption agencies if they wanted to go that route.

24 But the most beautiful thing for me to watch
25 was when those younger girls -- and that would have

1 been around my age -- that didn't have that support,
2 how, when they went to the Exodus house that we had,
3 or the apartment building, to see them with their
4 little babies and know that they were going to
5 thrive with their children and their life wasn't
6 going to stop.

7 We were going to try and help them any way we
8 could so that they could go to school, so that they
9 could get a job, so that they had daycare for those
10 babies.

11 That right there, for me, I wished -- if I
12 would have known that there were avenues like that
13 when I was younger, I would have gone and sought
14 them. But I just -- I didn't know.

15 Q. And has abortion and your view of that and how
16 to deal with that, did that continue on through
17 present day?

18 A. Yes, it has.

19 And just to add to that, now I have a beautiful
20 daughter with my boyfriend, who I was telling you
21 about, my second -- he's my husband of 24 years now.
22 And I have beautiful -- she's now 19 and going to
23 college. Beautiful young lady. And I also have a
24 grandbaby.

25 Q. And what about your relationship with God?

1 A. My relationship with God is everything that
2 sustains me, guides me, keeps me whole.

3 And it's why I'm here today.

4 Q. I want to move on and talk about the Union and
5 Southwest Airlines, but I don't want to leave it if
6 there is something else in this event in your life
7 that you are talking about and God and abortion that
8 we haven't mentioned.

9 A. I just know that I have been forgiven and I
10 want to do as much as I can to help somebody else.

11 And I just want to make this clear, though,
12 too. I don't preach my religion or my Christianity,
13 my belief in Jesus, okay, I don't shove that onto
14 anybody else.

15 Do I hold that close and do I say, you know,
16 things out loud? Yes, I do.

17 But I'm never going to deny Him after all of
18 the things that He's done for me through this time
19 period, from that moment that I had when I took a
20 life. I know He's forgiven me.

21 Q. All right. I appreciate that.

22 And I -- I wanted you to have that opportunity
23 so people could understand the things that happened
24 in 2017, okay?

25 Now I want to talk about you and Southwest

1 Airlines. So I think you said you started a job at
2 Southwest Airlines in 1996.

3 How did that come about?

4 A. Well, like I said, I had flown for American,
5 and after I had my son, I really wanted to go back
6 to flying. But before I got on with American, I had
7 actually applied once, and then -- well, twice,
8 because the third time was when I got on.

9 I got the job.

10 Q. How did you get it?

11 A. I had to, you know, apply, and we went to
12 the -- the way it was done before was you actually
13 went and had a group interview and then you had a
14 one-on-one interview, which I really wish they would
15 get back to. I don't know if that is what they do.

16 But it was a one-on-one. It was a very good
17 conversation with the leader, and then you got to
18 meet the people in the group when, you know, you are
19 interviewing. It's just an exciting time.

20 I got the job, and then I ended up having to
21 take a drug test and they do a background test and
22 all of that stuff. And then they okayed me for
23 class.

24 Q. Let me ask you, did they provide health
25 benefits to you?

1 A. Not during -- not during -- they don't pay you
2 or anything like that before you go to training or
3 in training. But when you get there, yes.

4 Q. When you start the job.

5 Was that important to you?

6 A. Oh, yes. Yes. Because at that time I didn't
7 have insurance. My husband at the time, ex-husband,
8 then, he was working on his own, so he had his own
9 company, and we didn't have insurance to take care
10 of my son at that time.

11 So, yes, it was very important for me to go
12 back to a company, because we were divorced now,
13 back to a company that I knew I had those health
14 benefits for him.

15 Q. And then is there some kind of training? You
16 said it, but I --

17 A. Yeah. So for us back then, I believe it was
18 six weeks of training. Pretty intense training
19 actually back then.

20 I didn't stay at the hotel at that time because
21 I still had my -- you know, I had my son, so I went
22 home every night and took care of him and studied
23 and came back during the day.

24 But then finally got on line and I --

25 Q. Getting on line means?

1 A. It means that you get your wings and you go on
2 a -- I forget what they called it back then. I
3 think it's an OE now or an IOE, whatever it was back
4 then.

5 So you go on a training flight. And back then
6 it was like -- I did eight legs for the day. So it
7 was the Texas eight leg day.

8 Q. Having worked at American as a flight
9 attendant, did you know you enjoyed being a flight
10 attendant, or did you find it --

11 A. I loved it. I loved it.

12 Q. What did you love about it?

13 A. I absolutely loved it.

14 Well, I'm a people person. I like being around
15 people. I don't thrive very well not having contact
16 with others.

17 I loved being on the airplane, I loved serving
18 the people on the airplane, I loved meeting the
19 people on the airplane. I flew with some wonderful
20 people crew-wise, both cockpit crew, flight crew.

21 It was just -- it was, you know -- and you
22 don't have -- I mean you set the tone when you are
23 on the airplane. You get to -- it's like your
24 little work atmosphere. It's your office.

25 And for me, I loved flying C. So because --

1 Q. Flying what?

2 A. Flying C. Position C at Southwest.

3 Q. I have no idea that that is.

4 A. So that's the overwing -- overwing window exit
5 area.

6 Q. Maybe everybody else understands. I have been
7 on a plane before, but --

8 A. Okay. So you know where the emergency exit row
9 is?

10 Q. I do.

11 A. Okay. So that was my favorite place to fly.

12 Q. Okay. Got it.

13 A. And the reason being was because when people
14 are getting on, we don't have a seating chart or
15 whatever on Southwest, it's open seating. And so a
16 lot of the times, you know, especially families
17 would come back towards the back. And so, you know,
18 the kids and the families and make them comfortable.

19 But I get to meet a lot of these people because
20 they are having to pass me. You know, you get to
21 say hello, and so on and so forth.

22 I flew A quite a bit at the beginning, loved
23 that, but C, I just -- you got to build this rapport
24 with people that were sitting right around you, you
25 know. And it's really interesting, the world is

1 really small.

2 Q. How so?

3 A. I would meet people -- we would get to talking,
4 you know, as people are getting seated, and I'm
5 sitting over at the overwing, and you would hear a
6 conversation, you know, behind you or the people in
7 front of you, and they would say something about
8 something that either they worked at or somebody
9 they knew or -- it was just -- I would be like, oh,
10 my gosh, I didn't know you know -- like my neighbor,
11 or just -- it was a small world.

12 And it's really a great world, to be quite
13 honest with you, out there. I loved -- it's
14 actually a better world than you think when you are
15 up in the airplane.

16 Q. Okay.

17 A. No, seriously, going from coast to coast.

18 Q. It's not always my experience on the plane, but
19 okay.

20 A. I did. I loved it.

21 Q. So how did you feel about Southwest Airlines as
22 a company then?

23 A. Oh, my gosh. It was the best company to work
24 for.

25 Q. Better than American Airlines?

1 A. Yes.

2 Q. Oh, come on now.

3 A. You weren't just a number.

4 On American I knew where I stood. I was a
5 number.

6 Q. I'm joking about that. I'm not saying anything
7 bad about American.

8 A. No, I'm not saying anything bad about American.
9 it was just a different culture.

10 Q. Okay. Tell me about how you felt about
11 Southwest Airlines when you went to work there.

12 A. Well, Southwest Airlines was -- our CEO back
13 then and our president was Herb Kelleher, who was
14 just the most amazing person to work for. Amazing.
15 He was a people person. He would get on our
16 flights. I had him on --

17 Q. He did?

18 A. Oh, yes, I had him on several flights out of
19 Dallas.

20 What was funny, too, is I had him on a flight
21 on an old 200 one time that he came back -- I know.
22 You don't know what I'm --

23 Q. I have no idea what that is.

24 A. The oldest airplanes that we had, the little
25 200s.

1 And so we had --

2 Q. All old.

3 A. No, they are not. There's new ones now.

4 But the club seating in the back of the 200,
5 okay?

6 So he came -- so there was a club seating, a
7 bulkhead, and then you had the club seating in the
8 overwing, a bulkhead, and then you had the -- it
9 really wasn't first class, but it kind of looked
10 like first class up in the front.

11 So, but I usually worked in the back. So, you
12 know, being C, I would be in the back.

13 Well, I would -- you know, I was back in the
14 back one afternoon, and I knew Herb was there,
15 because, first of all, he says hello to everybody
16 and hugs everybody. And, unfortunately, you can't
17 even do that anymore, which I think is pretty crazy.

18 But anyway, he'd get on the airplane, and he
19 would remember your name. He may have only met you
20 one time.

21 Q. You have got a nametag, ma'am.

22 A. Yes, I do know that. But he would know. He
23 would know you. He'd be like, Oh, yeah, I saw you
24 at blah, blah, blah, whatever.

25 Anyway, so he would get up in the cockpit --

1 now, this was, you know, still in the '90s, right?
2 But he would get up there and start smoking in the
3 cockpit. Those were his airplanes. And he would
4 hang out with the pilots.

5 But then, once we got up in the air, he would
6 come back.

7 So one time that I had him on the airplane, he
8 came back to the very back and he was going to help
9 put ice in the, you know, cups, and, I mean, he was
10 helping us -- and pass out peanuts and everything
11 else.

12 My one question to him was, so in the old 200s,
13 you'd come back to where the galley is and there was
14 this door, this like accordion door thing that held
15 all of our peanuts, all of our drinks, all of our
16 ice and everything.

17 But when you are taking off -- and, of course,
18 we used to get out of our seats when we were still,
19 you know, taking off, we weren't even at
20 10,000 feet, I mean, as soon -- especially if you're
21 going to Texas, you know, all throughout Texas.

22 So as soon as those wheels get up off the
23 ground, you're like, boom, gotta go. So you're back
24 in the back, you are trying to hold all of the cups
25 and glasses and everything, and you're trying to put

1 stuff on your galley, right?

2 He comes back -- and I'm doing, you know,
3 trying to do the same thing, you know, trying to get
4 my stuff on my tray and everything and get the
5 peanuts ready, because I know that he's probably
6 going to come back and serve peanuts.

7 Q. I miss the peanut days. Go ahead.

8 A. Yeah.

9 Well, anyway, he rounds the corner and he goes,
10 Hey, ladies, how is it going?

11 And we are like, Hey Herb, you know. And we're
12 getting hugs and whatever.

13 And I go -- and so he starts doing his stuff
14 with, you know, wanting to help with the ice and the
15 cups and everything. And he goes, I'm going to pass
16 out the peanuts. He goes, So let's go up.

17 So I was, you know, going to help him pass out
18 the peanuts from the middle section on back. But
19 before I did that, I go, Hey Herb, I have one
20 question for you.

21 And he goes, Yeah, what is that?

22 And I go, Who designed this galley with this
23 door that you got to like open up and everything
24 falls out at you when you are, you know, trying to
25 set your galley up. I mean, Coke cans and peanuts

1 and your cups and everything.

2 And he just laughed and he goes, I guess you
3 just have to go back to the drawing -- something to
4 do with the drawing board at Southwest Airlines.

5 And I go, Is there somebody I can talk to up
6 there?

7 He goes, I don't think so. We are stuck with
8 these.

9 Q. I've been asking you this so that the jury can
10 understand that you truly loved your job. Is that
11 fair to say?

12 A. Yeah, I did. I loved -- I loved my job. I
13 did.

14 Q. Okay. And in 1996, after you cleared your -- I
15 forget what you called it -- after you got on
16 line --

17 A. Uh-huh.

18 Q. -- at that point in time, are you required to
19 join a union?

20 A. Oh, you're required to join that union before
21 you even graduate. I mean it's the day of
22 graduation.

23 The union comes in. And I'm going to say this.
24 They never gave us the option. They never said, you
25 can opt out of this union. Never said that.

1 Q. You know it now?

2 A. Oh, I know it now, yes, I do.

3 Q. We will get to that.

4 But whenever you joined in 1996, was that
5 explained to you?

6 A. It was part of the employment. You had to be
7 in the union. We are a closed shop. So you don't
8 have the luxury to say, you know what, I don't want
9 to be any part of this at all.

10 So, yeah, the union comes in. You -- I
11 guess -- I can't remember what all we did back then,
12 but I know we had to sign something.

13 And I was actually -- it was interesting, you
14 all were talking about COPE. When I went through
15 class, COPE was explained to us that it was
16 something there to help flight attendants.

17 Q. What is COPE?

18 A. It's the political action fund stuff that
19 they -- yeah.

20 Q. What did they tell you COPE was?

21 A. It was to help us as flight attendants. They
22 never really said that it was a political-type
23 thing. It was there to help us in our jobs and so
24 on and so forth.

25 I thought it was, believe it or not, I thought

1 it was like one of those catastrophic fund-type
2 things that you put your money into, so I did the
3 two dollars every paycheck.

4 Q. So wait.

5 In addition to your union dues, you signed up
6 for more because you thought it was to help flight
7 attendants?

8 A. Yes. I did.

9 Q. Okay. That's 1996.

10 A. Yes.

11 Q. Do you recall seeing those emails earlier in
12 the trial about how happy your union was your head
13 would explode when you finally found out what COPE
14 was?

15 A. Yes, I did.

16 Q. How did that make you feel?

17 A. Not too good. Not especially since, you know,
18 it's the Union leadership making fun of, you know, a
19 member. I wouldn't think that that's, you know,
20 appropriate. They work for us. I mean, they are --
21 they are there for us.

22 Q. Okay. Well, let's go back to 1996 when they
23 are telling you, from your understanding, is that
24 COPE is to help the flight attendants. They don't
25 explain that it's actually for a bunch of political

1 causes that you may or may not agree with.

2 A. No. As a matter of fact, they tell you that
3 they stay out of politics. I was told that over and
4 over again.

5 Q. And so in 1996, were you anti-union?

6 A. No, I was not anti-union. I didn't know much
7 about the union at that time, but I wasn't
8 anti-union.

9 Q. In terms of how you think a union should
10 operate, are you anti-union?

11 A. No. I know why unions are there, I know
12 exactly why. Some are very, very good unions and
13 others are not.

14 Q. 1996, you joined the union. Tell me about your
15 union activities.

16 A. I went to -- well, at first I didn't go to a
17 whole lot of meetings at the very beginning, only
18 because I had a little boy at home, I was single, I
19 was flying to Chicago. You name it.

20 Q. Can I ask you about that? How are you a flight
21 attendant and a single mom, how does that work?

22 A. Well, whenever I flew, my son would go to his
23 daddy's house. So my ex and I, we ended up becoming
24 friends, basically, in raising our son together
25 basically. I mean, it's -- we lived near each

1 other. We made sure that both parents were there
2 for him. We didn't separate him very much from
3 either one of us.

4 So when I was flying, he was with his daddy,
5 and then when I came back into town, he was with me.

6 Q. Okay. So not a lot of time for union meetings?

7 A. No, not at that time. He was little.

8 Q. Okay. And so at what point -- tell me your
9 view of your union in 1996, 1997, 1998.

10 A. Well, that was when --

11 Q. Did you have a lot of knowledge?

12 A. Not a whole lot. I mean, I knew what they were
13 doing. I mean, I knew what they were there for, you
14 know.

15 That was back in the day of Paul Sweeten. I
16 had heard some good things and then some bad things
17 of the leadership.

18 But I -- the first union real membership that I
19 was like, wow, this is really messed up, was I had
20 come to Dallas, it was when we were going through
21 contract time, or contract negotiations.

22 Q. When is this?

23 A. Oh, gosh. You know what, I don't even remember
24 what year. It was --

25 Q. If you're going past 2000, you're ahead of me.

1 A. No, no, it was not past 2000.

2 Q. Go ahead.

3 A. It was sometime '96, '97, '98. I don't
4 remember when that contract was, when it was signed
5 in. Those years just kind of go together.

6 But I came to a union meeting here in Dallas,
7 and it was Paul Sweeten and his team, Garry
8 Drummond, and a ton of flight attendants, a ton of
9 flight attendants.

10 And they were discussing, you know, pay raises,
11 working conditions, you name it.

12 Q. That sounds good, right?

13 A. Yeah, it sounds good, until you're told by
14 Garry Drummond, who is TWU International -- and let
15 me tell you something, and I'm just going to be
16 really frank, he was drunk, he was drunk that night.

17 Q. Okay.

18 A. It was absolutely -- I just thought, wow, this
19 is what we have?

20 Q. Okay. Wait.

21 A. This is our main negotiator who is working with
22 our local to get our contract signed?

23 Q. And he's there to sell the contract?

24 A. Yes.

25 Q. What happens?

1 A. Well, first of all, he tells us, That's the
2 best you are going to get.

3 And we were all going, well, wait a minute. I
4 mean, you really haven't taken much of what the
5 flight attendants wanted in and really negotiated
6 it.

7 There was a lot of, you know, back and forth.

8 I was not impressed, not impressed at all.

9 And so that's when I really started getting
10 more involved. And that contract was, in fact,
11 good.

12 Q. What happens next as it relates to your
13 relationship with your -- first of all, all of this
14 time you are paying dues and you are paying COPE,
15 right?

16 A. Yes.

17 Q. You are still thinking COPE is that
18 catastrophic fund --

19 A. Yeah, I thought it was there to help flight
20 attendants.

21 Q. Did you know other flight attendants that
22 thought the same thing?

23 A. I knew of a couple, but I didn't really discuss
24 the COPE part of the union. I mean, it just -- I
25 didn't discuss what came out of my paycheck.

1 Q. So you just thought you were doing something
2 good to help flight attendants.

3 A. Yes.

4 Q. So after this experience with the contract in
5 the '97, '98 time period, what happens next
6 regarding your knowledge about your union or
7 activity?

8 A. Okay. So after that bad contract, and a lot of
9 people were upset about that, they really wanted new
10 union leadership. And so there was a lady who had
11 been here for quite some time, her name was Melissa
12 Smith, and she was running on -- what her ticket was
13 called was clean sweep.

14 And so at first she was running by herself,
15 okay, and then Thom McDaniel, Cindy Ritner -- there
16 were quite a few other people -- Stacy Martin and
17 some others decided that they -- they talked to her,
18 and they ended up running, I believe, as a slate,
19 okay.

20 Q. Did you support that slate?

21 A. Oh, yeah. Because I liked Melissa's -- she
22 wanted to go in there, she wanted a good contract.
23 She wanted to work for the flight attendants. She
24 wanted to make sure the money was being spent
25 correctly within the office. Because we were pretty

1 broke back then. There wasn't a whole lot of money
2 left after the last contract negotiations.

3 So, yeah, I supported her. I believed in her.

4 Q. Okay. What happened next?

5 A. Well, she got into office and I --

6 Q. She got elected?

7 A. Yes, she did, by a pretty big margin. She got
8 elected and people were finally happy again and
9 hoping to see some changes.

10 Q. This is for the Local 556, correct?

11 A. Correct.

12 Q. So this is good news?

13 A. Yes, it is good news.

14 Q. How long was it good news?

15 A. Not very long.

16 Q. What happened?

17 A. You know, and I don't know exactly the time
18 period, but I would say within the first year she
19 was removed.

20 Q. What was your understanding of why she was
21 removed?

22 A. Well, I know from testifying for her, the
23 reason that they removed her was due to false
24 accusations against her.

25 Q. Okay. What were the accusations?

1 A. Well, they were claiming, Thom McDaniel and
2 team, were claiming that she had embezzled money out
3 of TWU, and they were really pretty much trashing
4 her name through the system.

5 Q. What happened?

6 A. Well, what really happened was Stacy Martin had
7 had an incident at work, and it involved a young
8 lady that was working in the office, and he mooned
9 her, okay?

10 Q. In the office?

11 A. In the office, yes.

12 And the lady complained to Melissa.

13 And Melissa felt it was her duty, which it was,
14 because she was the president and also the person
15 that hired the office staff and so forth, so she's
16 their boss.

17 She ended up -- because this woman had
18 complained to her, had filed EEOC charges, I guess,
19 or an EEOC complaint.

20 Q. And what happened?

21 A. And she actually went to legal to speak about
22 that. And that is -- that's what they said -- that
23 would be in TWU, I believe in International.

24 And they said, yes, you should be doing this,
25 okay?

1 So fast forward. Stacy Martin decides he's
2 going to file charges on her because Thom, Cindy,
3 and all of the rest of them wanted her gone.

4 Q. How did you end up getting involved in this?

5 A. Because I had flown with Thom and I had flown
6 with Stacy Martin and I had flown with -- who was
7 the other one? Karen Amos.

8 I hadn't flown with Cindy Ritner, but I knew
9 the scuttlebutt, let's put that it way.

10 Q. How did flying with them make you a witness?

11 A. The witness part of it was due to the fact that
12 I saw what they did to her in union meetings. Oh,
13 yeah. It was -- union meetings can get very heated.

14 A lot of words can be said, a lot of bad words can
15 be said, things can be shared there.

16 And the board treated her, along with Paul
17 Sweeten's team, like she was dog meat.

18 Q. She was the president of the local union?

19 A. Yes.

20 Q. And what kind of trial did you testify in?

21 A. Well, they removed her from office.

22 Q. Who is "they"?

23 A. Well, if my recollection has it correctly, they
24 filed charges on her, okay? So she was fighting
25 these charges, which is like a trial, I think you

1 heard about that before. They filed charges on her.

2 Well, they removed her from her position at
3 that time, so Thom McDaniel ended up stepping into
4 the president's position.

5 While she was fighting these charges, okay, the
6 board had a board meeting, and the board decided to
7 charge her under Article 21, which is removal of an
8 officer.

9 So here she's fighting these charges over here,
10 okay, that are made up. Then what they do is they
11 have their union board remove her under Article 21.

12 So from there she loses the trial, per se,
13 through the Union, but then she filed a lawsuit.

14 Q. Okay.

15 A. And when she filed that lawsuit, I had known
16 all these people, flown with all these people, knew
17 the back story of all of this stuff, knew how she
18 had been treated in these meetings, along with she
19 didn't embezzle money.

20 Q. What happened at the trial?

21 A. I testified for her.

22 Q. Do you know the result?

23 A. Yes. She won. She won a judgment against the
24 Union for treating her the way that they did. Two
25 hundred and something thousand dollars. \$270,000, I

1 think is what it was.

2 Q. So if I understand correctly, in 2000, elected
3 Union president, your candidate, wins, and then,
4 from your understanding, is improperly removed and
5 actually gets a judgment against the Union for what
6 they did?

7 A. Correct. And they didn't put -- they were
8 supposed to put her back in office and they did not.
9 And they continued the lie out on line for years.

10 And Southwest did nothing about it.

11 Q. Southwest has a relationship with the Union,
12 from your --

13 A. Oh, and let me back up a minute.

14 MR. McKEEBY: Objection, leading.

15 THE WITNESS: Let me back up. I want to
16 be able to speak about this.

17 So Southwest Airlines, when Melissa became
18 president she was --

19 MR. McKEEBY: Your Honor --

20 THE WITNESS: -- pretty good friends --
21 I'm sorry.

22 MR. McKEEBY: Objection. I don't think
23 there is a question that is being responded to.

24 THE COURT: Okay. Ask your question and
25 then you can answer.

1 BY MR. PRYOR:

2 Q. Tell me what you wanted to say about Southwest
3 Airlines in that regard.

4 A. Okay. So Melissa had been at Southwest for
5 quite some time before I got on there. She was --
6 she was, I believe, a four-digit number. So she had
7 been there quite a long time.

8 Q. I don't know what a four-digit --

9 A. Well, a four-digit number meant she was kind
10 of -- not an original, but she was way up in
11 seniority, okay?

12 And she knew Colleen pretty well. I mean,
13 they -- she had worked with Colleen Barrett, who was
14 our president. Loved Colleen.

15 She was our culture, and they've lost that
16 culture. I loved that culture. It was -- it was
17 totally different than it is now.

18 But anyway, when she became president, Colleen
19 came to her and they had a meeting and she said, We
20 can no longer be seen together out of, you know,
21 office areas or whatever. Because they were
22 friends, and she had done other things with Colleen
23 throughout the years and so forth.

24 So anyway, she said that Union business is
25 Union business and Southwest business is Southwest

1 business, and the two don't mingle and we stay out
2 of Union business.

3 Q. You like that?

4 A. Yes.

5 Q. When was that?

6 A. That was back in 2000 or whenever she was --
7 whenever she was --

8 MR. PRYOR: Any time.

9 THE COURT: I'm going to ask if we can
10 take our last break for the day, just a 10-minute
11 break, and then come back.

12 MR. PRYOR: My back is killing me.

13 THE COURT: Okay. Same instructions as
14 always, jury. You can talk to your fellow jurors
15 and court personnel, just not about the case. You
16 can't talk to anyone else. And don't do any
17 research.

18 We will see you back here in 10 minutes at
19 4:17.

20 All rise for the jury.

21 (The jurors exited the courtroom.)

22 THE COURT: You can't talk to anyone about
23 the case while you are a witness.

24 (The witness exited the courtroom.)

25 THE COURT: Okay. Anyone have anything to

1 bring up?

2 MR. McKEEBY: I haven't been able to give
3 the assignment yet, so --

4 THE COURT: Okay. We can give assignment.
5 We're looking for the question of whether
6 a witness who has left the stand but will be
7 recalled later can be told to not talk to anyone
8 about the case.

9 MR. McKEEBY: I appreciate that.

10 THE COURT: So the search continues for
11 all of us.

12 All right. We will take our break and I
13 will see y'all back here at 4:17.

14 (Recess.)

15 THE COURT SECURITY OFFICER: All rise.

16 THE COURT: We are still looking. So
17 first one wins a prize.

18 Okay. So are we ready for the jury?

19 MR. PRYOR: Were we going to find out the
20 answer or we are going to do that later?

21 THE COURT: What is that?

22 MR. PRYOR: The rule issue. I didn't know
23 if --

24 THE COURT: We are still looking. So I
25 just said first person who finds out gets a Twix

1 candy bar.

2 MR. HILL: Rule 615 on its face, I think
3 pretty clearly it applies to Mr. Schneider.

4 It says, "At the party's request, the
5 Court must order witnesses excluded so they cannot
6 hear other witnesses testify."

7 Mr. McKeeby has already told us that he
8 intends to recall Mr. Schneider. Mr. Schneider
9 remains a witness, and therefore, is excluded from
10 the courtroom.

11 MR. PRYOR: I don't think -- maybe that's
12 the issue. I don't know.

13 MR. HILL: Did I misunderstood the issue?

14 THE COURT: Well, it might be. I know
15 there is a Supreme Court case saying once a witness
16 has left the stand overnight but is coming back the
17 next day for their testimony where they're the next
18 witness on the stand, yes, they can be instructed to
19 not talk to anyone.

20 The question is, if they left the witness
21 box and another one comes in, then are they
22 discharged from their duty to refrain from talking
23 about the case.

24 MR. HILL: Okay. I'm all for it.

25 THE COURT: So you still have a facial

1 argument.

2 MR. GREENFIELD: Your Honor, is there a
3 more recent case that you are aware of?

4 MR. PRYOR: I should have explained it a
5 little better.

6 MR. GREENFIELD: I apologize, Ms. Willis,
7 for the 12th time.

8 Is there a more recent case on point that
9 you are aware of other than Geders v. U.S. in '76?

10 THE COURT: Give me that citation.

11 MR. GREENFIELD: Yes, your Honor.

12 Okay. 425 U.S. 80, 96, Supreme Court,
13 1330. It's a '76 Supreme Court case.

14 THE COURT: What's that -- sorry. What's
15 the citation, the first page of that case?

16 MR. GREENFIELD: 425 U.S. 80.

17 THE COURT: 8-0.

18 MR. GREENFIELD: Yes. And what I'm
19 looking at in the synopsis is that the Supreme
20 Court, Mr. Chief Justice Burger, held that the trial
21 court's order preventing defendant from consulting
22 his counsel about anything during a 17-hour
23 overnight recess in the trial between his direct and
24 cross-examination deprive defendant of his right to
25 the assistance of counsel guaranteed by the Sixth

1 Amendment.

2 And that was -- that decision was reversed
3 and remanded.

4 THE COURT: Okay. So we are all looking
5 for anything more recent than that.

6 All right. Jury.

7 MR. GREENFIELD: Your Honor, based on that
8 case, I believe it says that it is acceptable for
9 counsel to be able to address this witness.

10 (The jurors entered the courtroom.)

11 THE COURT: Okay. You can take a seat.

12 Mr. Pryor, you can continue.

13 BY MR. PRYOR:

14 Q. Okay. Ms. Carter, I did want you to give the
15 jury your background with your union and how it
16 affects the activities that you have been involved
17 in, but I might want to move you a little bit
18 quicker, okay? And I understand there is apparently
19 a lot. I appreciate explaining that experience in
20 2000.

21 Are we skipping over anything that you think is
22 terribly significant before we get to 2013?

23 A. No. No.

24 Q. From 2000 to 2013, did you continue to be a
25 union member?

1 A. Yes. I did.

2 Q. Even after all of that stuff and Melissa and
3 testifying against the Union, all of that stuff you
4 talked about, why did you stay a union member?

5 A. Because I didn't know I could opt out.

6 Q. So you are still paying dues and you are still
7 paying COPE.

8 A. Yes.

9 Q. So we are -- by 2017, we are 17 years into
10 paying COPE.

11 A. Yes.

12 Q. So how active were you in the union from 2000
13 to 2013?

14 A. I had gone to several union meetings, but they
15 were sporadic. Some in Dallas, and then eventually
16 when I moved to -- well, I think I went to one or
17 two, maybe, in Phoenix. I'm trying to think.

18 Because I don't know if that was -- that may have
19 been when Audrey was in office. I can't remember.

20 I didn't go to that many union meetings --
21 yeah, union meetings. For one, usually they were on
22 a date that I was flying, which was hard, and at
23 that time, you know, if you wanted to go to another
24 base, you had to get on the airplane and go there.

25 I was always hoping that they would do them

1 electronically as in a union meeting being there in
2 person, but yet still having the ability, which I
3 think we were getting to, in 2012, and then that got
4 shut down.

5 Q. So from 2000 to let's say 2012, you weren't
6 terribly active but still a dues-paying member?

7 A. Yes. Yes.

8 Q. What happened in 2012-2013?

9 A. Well, it was another slate that was put in, and
10 that would have another election.

11 Q. Okay. Tell me about the slate that you
12 supported.

13 A. Okay. So -- which is interesting because it
14 involved Stacy Martin, who had harmed Melissa back
15 in the day.

16 Q. Wait. The mooner?

17 A. Yes.

18 Q. Okay. Go ahead.

19 A. So it was Stacy Martin, Chris Click, Jannah
20 Dalak, Don Juan, and I can't think of who all the
21 other people were. Because there is executive board
22 members that sit, you know, like the president and
23 so forth. Jerry Lindemann, was the other one. He
24 was our treasurer.

25 And then we have executive board members that

1 are the domicile board members. I can't remember
2 who all was the domicile board members.

3 But, yeah, we voted in the main people were the
4 ones that we wanted in.

5 Q. Okay. Is that the Click group?

6 A. Yes, it sure is.

7 Q. So why did you support the Click group?

8 A. Well, because I liked Jannah Dalak, Don Juan.
9 I didn't know Jerry Lindemann all that well. But we
10 needed a change. And then --

11 Q. Why did you need a change?

12 A. Well, because some people had been in there for
13 such a long time. I mean, it's kind of like the
14 government. You kind of got to start having some
15 term limits.

16 So anyway, so I trusted -- and I also trusted
17 Chris Click. Chris Click and I had had many
18 discussions because at first he didn't really know
19 about what Melissa was all about. And so we had had
20 discussions. He wasn't actually a fan of hers for a
21 while.

22 So anyway, fast forward to 2012, whenever it
23 was, the election. They got elected in.

24 And before -- let me back up. So Stacy Martin
25 was a part of that trial. I had to call --

1 Q. What trial?

2 A. Well, the trial for Melissa.

3 Q. So you are going back to 2000 on me?

4 A. Yeah, I'm just --

5 Q. I'm on a time clock.

6 A. I know. I know.

7 So Stacy Martin helped remove Melissa. Fast
8 forward. I had to talk to Stacy before I could vote
9 for him --

10 Q. Okay.

11 A. -- and make sure -- I had to really, I guess,
12 trust him per se. So I actually called him at home
13 and we had a long conversation.

14 Q. Okay.

15 A. So I voted for that entire slate.

16 Q. All right. And does that slate get elected?

17 A. Yes.

18 Q. And what happens?

19 A. Pretty much the same thing that happened the
20 last time with Melissa.

21 Q. Tell us your understanding of what happened
22 this time.

23 A. Well, supposedly I'm hearing --

24 Q. Pretty short?

25 A. -- it's embezzling again, money, this, that and

1 the other.

2 But I can tell you this.

3 MR. GREENFIELD: Objection, your Honor.

4 Lack of foundation. Unless that's laid, it's
5 hearsay testimony.

6 THE COURT: I will allow it as effect on
7 listener.

8 You may proceed.

9 THE WITNESS: Okay.

10 Well, they just testified for it
11 yesterday. They said something to do with money or
12 something. Anyway.

13 BY MR. PRYOR:

14 Q. Tell us what your understanding is.

15 A. Okay. So you go back to -- okay. Now I've
16 lost my train of thought.

17 Q. In 2013, what happened with the Click slate
18 that got elected?

19 A. Okay. So the people that don't like us as
20 opt-outers or --

21 Q. Wait a minute. Were you an out-opter at that
22 time?

23 A. No, not yet. Not yet.

24 What I'm talking about, the people that keep
25 turning people in right now, like Brian Talburt and

1 so forth.

2 Q. Um-hmm.

3 A. Okay. Those people kept filing charges against
4 Chris Click, Stacy Martin. I think it was pretty
5 much Stacy Martin for the most part, and Chris
6 Click, okay. They kept filing charges on them. And
7 they were constantly badgering them. All right?

8 They could never really do the union work.

9 Q. They are in office, but from your
10 understanding, they are being barraged with
11 complaints by --

12 A. Yes.

13 Q. -- the older group.

14 A. Yes. And we all knew this.

15 Q. The losing group.

16 A. Yes, absolutely.

17 Q. All right. What happened?

18 A. So eventually I don't know what all happened to
19 actually have International come in and then remove
20 them again, but they got removed.

21 Q. So once again the elected officials are removed
22 by International?

23 A. Correct. Three of them. It was Chris Click,
24 Jerry Lindemann, and Stacy Martin. And Stacy Martin
25 was our president.

1 Q. And who takes over?

2 A. At that time they put in Audrey, and I think
3 Audrey became the first vice president. And I don't
4 know how all that -- the other person that I guess
5 had come in second for president either didn't want
6 it -- I don't know.

7 But then she got moved up to president.

8 Q. So did Audrey run for office?

9 A. Against that slate, yes.

10 Q. And did she win?

11 A. No.

12 Q. So she lost, and the people that were elected
13 are kicked out?

14 A. Correct. All of the people that were in there
15 after the fact were the slate that had been not
16 voted in.

17 Q. And how did you feel about that, your union?

18 A. It was just another slap in the face for the
19 people that voted them in.

20 Q. And what did you decide to do?

21 A. I went to one of my last union meetings. It
22 was in 2013, it was in Denver. And Greg Hofer and I
23 had come up with -- several of us, actually -- bylaw
24 changes, because it was bylaw change time.

25 So I went there to represent for Denver and

1 make some bylaw changes.

2 Q. What changes were you trying to make?

3 A. Well, some of the wording in some of them and
4 just different things that helped govern our, you
5 know, union.

6 Q. Okay.

7 A. And at that time I was able to read all of the
8 horrible things, because I had the floor at that
9 time, all of the horrible things that those people
10 had said and what they were doing to remove those
11 people in the union office. Which I was pretty glad
12 to do.

13 Now, go back. I was a union member. I was
14 reading their stuff. It had all kinds of nasty
15 things in it that they had said about Stacy and all
16 of them and how they removed them.

17 And I didn't get turned in for that because
18 when you are at a union meeting, the company can't
19 do anything about that.

20 Q. All right. At the meeting did anything happen?
21 Did anyone threaten you?

22 A. Yes.

23 Q. What happened?

24 A. At the end of the meeting, I was walking out --
25 or I got up, my friend Kim Hensley and I were

1 getting up, and then I was going over to talk to
2 Chris Sullivan, who ended up being my representative
3 when I got fired.

4 I was walking, you know, out of the room or
5 whatever, and Cuyler Thompson turned and he goes,
6 Ms. Carter, Ms. Carter, if you ever say the word, if
7 I hear of it again that you say the word
8 "decertified" -- now, I'm paraphrasing right now
9 because I don't know exactly how his phrasing was --
10 I will file charges against you.

11 And then I turned and Brett Nevarez was
12 standing right behind me. He's a pretty tall guy,
13 he's a big guy. And he said, or I will do it.

14 Q. And after that, how did you feel about your
15 union?

16 A. I was disgusted with them and I opted out.

17 Q. Tell us what -- I know the jury has heard it,
18 but I want to get your understanding of what "opting
19 out" meant.

20 A. Okay. So a fee-based flight attendant, or an
21 objector, what happens is, I still have to pay union
22 dues out of my paycheck every month, okay? And I
23 pay the exact same amount as everybody else.

24 I don't get to go to union meetings, I don't
25 get to vote contract if there is a contract coming

1 up, okay.

2 So I don't have a voice there, okay? But I
3 still have a voice within my local.

4 But I can't, like I said, I can't go to the
5 union meetings and actually participate.

6 The portion that -- so I paid the full dues,
7 and every three months -- so it's every quarter --
8 the international -- this is what I'm told -- the
9 international part that they don't take out for
10 political purposes is refunded back in a check.

11 So within that quarter I usually got about a
12 27, \$28 check that International would send back to
13 me, but the local still takes out everything that
14 they need from my paycheck.

15 Q. Did you do it for \$27?

16 A. Did I do it for \$27?

17 Q. Right.

18 A. Yeah, I did. We were hoping to get more
19 members because people were pretty darn fed up. I
20 forget what the number was, it was like 100 and
21 something.

22 But a lot of people were afraid to object and
23 opt out because of the way we had been being
24 treated.

25 Q. Is the reason you wanted the \$27 you didn't

1 want the union to spend the money on --

2 A. Yeah, I didn't want International using the
3 money --

4 But, you know, the thing is, we don't know
5 where all of that money goes. Okay. So when --
6 when Audrey was saying, We don't pay Planned
7 Parenthood, okay, our union dues are taken every
8 month. Then a portion of that, and it's a big
9 portion of it, goes to International, which is TWU
10 International. Okay?

11 But we fall under also the AFL-CIO. Then some
12 of those dues go to the AFL-CIO, and they fund
13 Planned Parenthood. So my dues do go to fund
14 Planned Parenthood.

15 Q. And so you opted out. And so now, at least in
16 theory, they do not.

17 A. That's a good question.

18 Q. Now, it still goes to salaries of people that
19 are involved.

20 A. Correct.

21 MR. GREENFIELD: Objection, your Honor.

22 THE WITNESS: It goes to all of it. So
23 my --

24 MR. GREENFIELD: Objection, your Honor.
25 He's leading the witness.

1 THE COURT: I will sustain that. More
2 open-ended.

3 THE WITNESS: Okay.

4 BY MR. PRYOR:

5 Q. Now, after you opted out, how were you able to
6 raise your concerns with your union since you
7 weren't someone that could go to a meeting?

8 MR. GREENFIELD: Objection, your Honor.
9 He's still leading the witness.

10 THE COURT: I'll allow that one.

11 THE WITNESS: The only way to speak my
12 voice, okay, was to call them, okay, which I had
13 tried calling Audrey a couple of times. She doesn't
14 return calls. She just -- and half the time she was
15 never there. We never saw her. Well, I never saw
16 her anyway.

17 But she was -- we even had a whole thing
18 about one time where she was missing.

19 The next thing is I can either email her,
20 but then, when she was running, she had put a
21 Facebook page together that said "Audrey Stone,
22 TWU." And the whole page was designed on when she
23 was running. So she was putting things on that page
24 the entire time that she was running.

25 And then people were asking questions

1 about her slate and people were asking questions
2 about the union and so forth. So she used that
3 platform as her union page.

4 We also had a page which was connected to
5 the Union on Facebook, but they shut it down to
6 where you couldn't anymore ask questions, or you
7 couldn't comment, that's what it was. They could
8 put stuff on there, but you couldn't comment on it
9 anymore. So they kind of censored us.

10 So my only way was either email -- because
11 she never returned phone calls -- or on her
12 Messenger.

13 So for me, when I was online, if I had --
14 if I had seen something, because we are in all of
15 these little Facebook -- and they are all private.
16 She tries to claim that they are not, but they are
17 all private, those -- and they are all
18 union-activity related.

19 So I would get a lot of the information
20 either from flying or on these Facebook pages. So
21 one is Fusion, one is One Love, one is Sassy Stew.
22 I mean, there's a plethora of them, okay?

23 So when I would see something, you know,
24 that I didn't like and I knew what was going on, I
25 messaged her, which is, I had every right to do.

1 BY MR. PRYOR:

2 Q. And did you message her regarding events or you
3 just were sending her a message every day?

4 A. No. The first message from me was when I found
5 out that they had the core group going on.

6 So all those screen shots of how they had
7 talked about -- and now, granted, Audrey was an
8 admin on that page as well, okay? So there were
9 certain people that were listed. She was an
10 administrator.

11 Q. The name of her admin on that?

12 A. It was Audrey Stone TWU.

13 Q. Okay. Go ahead.

14 A. Okay. So anyway, it was all of their group.
15 And, you know, I don't have any problem with that.
16 If that is what they want, that is fine.

17 But the way they were talking about the rest of
18 the members was very derogatory.

19 One of my friends, Steven Hobbs, they were
20 actually talking sexual stuff about him, sexually
21 harassing him, and he's a gay man.

22 I just -- it blew my mind that they were
23 getting away with -- oh, and then you have got, you
24 know, the fucktard, you know -- they were -- they
25 were making fun of and saying such nasty things

1 about members. And it was getting passed around
2 finally.

3 Somebody, I don't know who it was in their core
4 group, got ahold of it, and then we got ahold of it.

5 Q. And did you --

6 THE COURT: Hold on. Objection?

7 MR. McKEEBY: Yeah, just -- objection, can
8 we return to the question-and-answer form, as
9 opposed to the narrative, non-responsive.

10 MR. PRYOR: I will ask a question.

11 THE COURT: Yes, please do.

12 BY MR. PRYOR:

13 Q. After finding out and seeing the messages of
14 the core team members, did you send messages to
15 Audrey Stone TWU?

16 A. Yes. That was my first message to her, because
17 they had been turned in to management and I was so
18 glad somebody finally caught them.

19 Q. And was this -- what year was this?

20 A. It had to have been '15. 2015.

21 Q. And was there an election going on?

22 A. Oh, yes.

23 Q. Were you involved in that?

24 A. Yes, I was.

25 Q. You couldn't vote?

1 A. No, I couldn't vote, because I had already
2 opted out. But I was -- you know, if friends or
3 whatever would call me and ask me questions about
4 the slate, the other people that were running, yes,
5 I was involved in that.

6 You know, if they had questions.

7 Q. Did you ever Facebook message Audrey Stone TWU
8 about the removal of the Click team?

9 A. Yes, I did.

10 Q. And why did you do that?

11 A. Because they were -- well, first of all, Jerry
12 and Chris should have been put back in office. If
13 they had a problem with -- and, you know -- and
14 unfortunately, Janna and Don, who I adore, they
15 decided to resign.

16 So at that point, all of the other -- I think
17 most of everybody from that other slate came in, so
18 now they had control of the Union.

19 Ask that question again, what was the --

20 Q. I think you have answered it.

21 A. Okay.

22 Q. So you did message about that. You messaged --
23 you told us about the -- the core team
24 communications.

25 A. Yes. And can I say something about that?

1 Q. Well, I have to ask you a question.

2 Tell me what you have to say about the core
3 team message.

4 MR. GREENFIELD: Objection, calls for a
5 narrative.

6 MR. PRYOR: I'm not sure if it does.

7 THE COURT: I will let her answer.

8 THE WITNESS: Okay. So the core team
9 were -- and every one of -- pretty -- I think every
10 one of their board members were on there, along with
11 the -- oh, what do you call it? The -- well, all of
12 the board members. So the domicile board members
13 and so forth were on there, and then some of the
14 other friends of theirs.

15 And Brian Talburt was one of them. And he
16 actually was, at one point, a shop stew. So when
17 they say he didn't have any relation to the union,
18 he was actually a shop stew.

19 So the core team actually -- and which I
20 agree, we should have freedom of speech. I am not
21 against anybody speaking freely online at all. The
22 problem was, is the core team -- the people on the
23 core team had been turning -- obviously, you have
24 seen that with Brian -- had been turning all of us
25 in for the same types of -- what? Conversations

1 about the union, not -- some maybe hate speech or
2 whatever, but it is protected union speech on One
3 Love, Sassy Stew, all of these other ones, but they
4 were taking those screen shots and they were turning
5 it into the company, and the company was going after
6 them for social media.

7 But are the core team, when they got
8 turned in -- and there was a two-day meeting --

9 MR. GREENFIELD: Objection, your Honor,
10 again, can we return to --

11 THE COURT: We need to get a more concrete
12 question and answer.

13 THE WITNESS: Okay.

14 BY MR. PRYOR:

15 Q. And let me interrupt you -- and I appreciate
16 it. Is it fair to say you are passionate about
17 this?

18 A. Yes. Because it is a double standard.

19 Q. So I'm going to move forward a little bit. I'm
20 not saying we won't come back and let you tell us
21 about that.

22 A. Okay.

23 Q. But in the 2015 time frame, was there a
24 Collective Bargaining Agreement to be voted on?

25 A. Yes, there was.

1 Q. And is that the Collective Bargaining Agreement
2 that was negotiated by the Audrey Stone team?

3 A. Yes.

4 Q. And what was your feeling about that?

5 A. Well, the TA that they brought to all of us --

6 Q. What is TA?

7 A. Tentative agreement.

8 Q. Okay. So it is not a CBA yet?

9 A. Right. Now, I got to read it. I didn't get to
10 vote. So -- but yes, the TA.

11 That TA took us backwards from what we had,
12 what we already had, okay, that we had negotiated
13 over years of different contracts. They were
14 literally taking away a lot of what we -- what we
15 had negotiated.

16 So the contract, the TA was -- and we couldn't
17 figure out why. Why -- I mean, because eventually
18 you are going to have to come back out on line and
19 fly this -- or are you going to come back out and
20 fly this? Okay?

21 Q. "Fly this," meaning, you are going to have to
22 make the money that we are making?

23 A. Yeah -- well, and go through the new -- you
24 know, scheduling, or vacation point system, you name
25 it. Whatever was negotiated within that contract

1 took us back instead of forward.

2 And on top of that, they also took away the
3 fact that it was going to be a bonus now instead of
4 retro pay. Where before, we had always gotten retro
5 pay from the date that that old contract expired.
6 And from that time period until the new contract,
7 okay, was ratified, you would get that new raise,
8 okay, all the way back to when that contract was
9 ready to be ratified.

10 Q. That is a big deal?

11 A. Oh, it is a huge deal. Because on top of not
12 getting the money that you would have gotten with
13 the retro pay -- which we had always gotten
14 before -- the bonus was now going to be taxed at a
15 bonus rate.

16 So when the people actually -- so -- and so the
17 first contract that -- everybody said no. It was an
18 87 percent. They -- nobody -- everybody thought
19 that they were working with the company, basically.
20 And they were done.

21 MR. GREENFIELD: Objection, your Honor.
22 She's testifying to what other people believe at
23 this point.

24 THE COURT: I will allow it. Keep going.

25

1 BY MR. PRYOR:

2 Q. Let me -- and I get that -- your issues with
3 the TA, and that is really what I was asking about.

4 And did you communicate with your -- even as an
5 objector -- your union about your objections about
6 those issues?

7 A. Yes.

8 Q. And was this an important issue to you --

9 A. Yes.

10 Q. -- your contract with Southwest Airlines?

11 A. It is our livelihood. It is our -- it is our
12 safety on the airplane. It is our vacation time.
13 It is the point system. It is -- yeah, it is -- I
14 mean, it is -- it is what we now will be, you know,
15 governed by as flight attendants. It is what --
16 yeah, it is our -- it is our work rules.

17 Q. And so you raised those issues as well?

18 A. Yes.

19 Q. I'm going to move to 2017.

20 A. Okay.

21 Q. And there may be more. And we will be back on
22 Monday. Sorry, but we will.

23 The -- in 2017, did your union get involved in
24 something that upset you?

25 A. Well, they had gotten involved in quite a few

1 things, but yes, they did.

2 Q. Okay. I'm talking about in January of 2017.

3 A. Yes.

4 Q. And tell me how you became aware -- first of
5 all, what you were upset about and how you became
6 aware of it.

7 A. Well, how I became aware of it was -- so the
8 march had already gone on. And I found out about it
9 through One Love, which is one of our sites, and
10 also through the Unity Magazine, that they had been
11 to this march.

12 Q. And what was upsetting you about -- I mean, you
13 believe in women's rights, don't you? You believe
14 in every women's rights --

15 A. Yes, I do. I am a woman.

16 Q. What is your problem?

17 A. The main sponsor for that march -- and it had
18 been televised and it had been talked about, so I
19 don't know how anybody couldn't have known -- but it
20 was Planned Parenthood who arranged that march along
21 with -- there was another lady, I can't think of her
22 name -- but she was a big woman's, you know,
23 activist or whatever.

24 But Planned Parenthood was the main sponsor of
25 the march.

1 Q. And how did you feel about your union being
2 associated with that? And when I say "your union,"
3 I know you are an opt out, but you are still a dues
4 payor?

5 A. Yes. So my money paid for that.

6 Q. And that is still the only way that you can be
7 represented to the company for a TA or a CBA?

8 A. Correct.

9 Q. See how I learned these initials?

10 A. Yeah. So, first of all, I'm just going to
11 leave my Christian value -- or, you know, not my
12 Christian value system, but the abortion part, just
13 by -- in one bucket. I mean, you were just saying
14 buckets.

15 Q. Okay. All right.

16 A. Okay. So one bucket is we are professionals.
17 Okay? That is how I view my job. I'm a
18 professional. I dress professionally. When I get
19 on the airplane, you know, I present myself as, you
20 know, professional.

21 They went to this march, and they were
22 wearing -- and they were called, and excuse my
23 language -- but it was called the Pussyhat Project.

24 And it was in reference to Trump making a
25 derogatory statement, and that was how that whole

1 Pussyhat Project came to be. Okay?

2 And these women went to the women's meeting,
3 and they are actually in the pictures at the women's
4 meeting knitting these pussyhats.

5 And no, they are not just kitty cat ears, it is
6 supposed to be the women's genital area.

7 And this has been told to me also by one of
8 their board members. Okay?

9 So they go to this march, not only are they
10 supporting something that half, if not more than
11 half of the membership, a lot of them are men, a lot
12 of us are Christians, or -- you know, it is not the
13 whole group. They didn't represent all of us. But
14 that is what they claimed.

15 And they went to that march and they wore those
16 hats. Now, if I want to be respected as a woman and
17 really have women's rights, and be valued as a
18 woman, there is no way I would wear that hat.
19 Because it is supposed to resemble or -- yeah.

20 Q. Okay. That is your personal view of that. And
21 you expressed that view?

22 A. Yes.

23 Q. And you sent a communication, we have all seen.
24 And we have just got a few more minutes.

25 A. Yes, I did.

1 Q. But I want to get to a couple things, we will
2 come back to it Monday morning, judge allowing.

3 So you complained about that. Did you also
4 complain about Planned Parenthood?

5 A. Yes, I did.

6 Q. And you sent a video?

7 A. Yes.

8 Q. And in what manner -- did you send it to the
9 public, what did you do?

10 A. No. I sent -- so through that whole time
11 period, of course, a lot of things were being shared
12 on Facebook. And I came across several articles
13 about the Women's March, and the things that went on
14 there, and who was -- make a long story short, the
15 things that, you know -- there was pro people there
16 and pro choice people there, pro life and pro
17 choice.

18 And some of those pro life places are what I am
19 on, okay, so I'm hooked to them. Those were some of
20 the videos on some of the things that I had found.

21 And for me, if I would have seen those before I
22 went in to do what I did, I never would have done
23 it.

24 Q. And why did you send it -- well, first of all,
25 when you sent it to Audrey Stone TWU, who were you

1 sending it to?

2 A. Audrey Stone TWU, my union president.

3 Q. And why were you sending it to your union
4 president?

5 A. Because she is the leader of the Union that
6 also sat on the women's committee and planned this
7 march, and she led the march to DC.

8 Q. Did you want dues spent on anything to do with
9 that?

10 A. No. I didn't want anything being spent on it.
11 They can go and they can march all they want. But
12 not on my dime.

13 Q. So that is one of the reasons.

14 But then did you also want to -- there to be an
15 understanding about what abortion was?

16 A. Yes.

17 Q. And did you include a video?

18 A. Yes, I did.

19 Q. Was it sent privately?

20 A. Yes, it was.

21 Q. Could it only be opened up voluntarily?

22 MR. McKEEBY: Object to form, leading.

23 THE COURT: Yep, can you rephrase.

24 BY MR. PRYOR:

25 Q. Did you send it in a manner where it would pop

1 up and you couldn't avoid it or would you have to
2 voluntarily decide to look at it after having seen
3 the subject matter?

4 MR. McKEEBY: Same objection.

5 THE COURT: I'll allow that form.

6 THE WITNESS: No. You had to actually
7 click on these, both of the videos you had to click
8 on them.

9 BY MR. PRYOR:

10 Q. Were you doing that to try and have some impact
11 on protecting unborn children?

12 MR. GREENFIELD: Objection, your Honor
13 leading.

14 THE COURT: I'll allow it.

15 THE WITNESS: I wanted her to understand
16 that what she supported at that march, that was the
17 main -- it was all about, you know, pro choice and
18 women's right and you name it. But the main portion
19 of it, was, you -- my body, my choice. Okay? And
20 that is what she marched in. I helped pay for it.

21 There is lot of us that didn't like that.
22 And I felt like, you know what, the only way that I
23 can express what you just helped or marched with,
24 was sending those.

25

1 BY MR. PRYOR:

2 Q. And you have been involved in this issue.

3 Have you seen anything, in your opinion, more
4 effective to explain what abortion is?

5 A. No, I haven't. As a matter of fact, there is a
6 whole group out there right now that -- it is not a
7 group, it is an organization -- that actually is
8 going up to people and asking questions about
9 abortion, and do -- you know, are you for it, are
10 you against it? And let me show you what happens.

11 And a lot of times, people, when they see
12 things like this, yeah, they are -- they had no
13 idea -- a lot of people don't understand what really
14 goes on and how big that baby really is and how much
15 it is formed in just a short amount of time. And it
16 is a baby. It is not just a clump of cells.

17 I mean, we can say the same thing for a little
18 puppy dog. I have got sonogram pictures of puppies
19 and I have got sonogram pictures of babies, and they
20 look a lot alike at the same stages.

21 Q. So when you sent the communications to Audrey
22 Stone TWU, did you believe you were speaking to your
23 union?

24 A. Yes. It had everything to do with the march.

25 Q. When you sent your video to Audrey Stone TWU,

1 did you believe you were also expressing your
2 religious beliefs?

3 A. Yes. I told God that I would never, ever stop
4 fighting for life.

5 Q. And we have just a few minutes, so I'm going to
6 skip for now the fact-finding meetings.

7 But did you ever in your wildest dreams think
8 that your 21-year employer would fire you for
9 exercising your union rights?

10 A. No.

11 Q. Did you ever in your wildest dreams believe
12 that Southwest Airlines would fire you for
13 expressing your religious beliefs?

14 A. No.

15 Q. Do you remember where you were when the job you
16 loved for 21 years and the company you helped build
17 called you and told you what the results of your
18 fact-finding hearing was?

19 MR. MCKEEBY: Objection, leading.

20 THE COURT: I will sustain that. You can
21 rephrase.

22 BY MR. PRYOR:

23 Q. Tell us about how you found out about the
24 results and what happened.

25 A. Well, it was almost 5:00, and they wait until

1 the very last minute of the very last day to call
2 you. And --

3 Q. Were you waiting for it?

4 A. Yeah, I was waiting for it. I was waiting for
5 one or the other, you know, either I was fired or I
6 wasn't.

7 And they literally wait until 5:00. And the
8 phone finally rang and it was Ed Schneider, and he
9 read the letter that you put up, my -- the letter
10 that I was fired, and read it out loud to me.

11 And --

12 Q. What was your reaction?

13 A. Well, my husband was standing there. And he,
14 you know, he asked me if I had any questions, and I
15 said no. And I had Beth Ross on the other side,
16 because the union person was on the phone with me.
17 And I just fell to my -- I fell to the ground and
18 started crying.

19 Q. Did you pray?

20 A. Yeah, I did.

21 MR. PRYOR: Your Honor, this is a good
22 time to break for the week.

23 Thank you, ma'am.

24 THE COURT: Sounds good to me.

25 Okay. So the same three instructions.

1 You can only talk to your fellow jurors and court
2 personnel, but not about this case; don't talk to
3 anyone else; and don't do any research about the
4 case.

5 We will see you back here at 8:45
6 tomorrow.

7 All rise for the jury.

8 Sorry. You've got the weekend off.

9 Congratulations. We don't have the weekend off, but
10 y'all do. We will see you on Monday.

11 (The jurors exited the courtroom.)

12 THE COURT: Okay. So you can leave the
13 witness box, but don't leave the courtroom. I need
14 five minutes to finish up my research.

15 And then can we come back and talk about
16 witness instructions?

17 MR. McKEEBY: Your Honor, that's fine.

18 THE COURT: I think it is an open question
19 because I have to figure out Schneider and Stone,
20 all at the same time. So the next five minutes,
21 don't talk about the case. But you may be able to
22 after that.

23 MR. HILL: I think they are actually
24 different answers, under Geders.

25 THE COURT: What's that?

1 MR. HILL: I think they are actually
2 different answers under Geders.

3 THE COURT: Yes. And that is not the
4 latest case on the issue. So I will send y'all
5 Harry v. Leak. That is another one to look at.
6 That is 488 U.S. 272 from 1989.

7 MR. McKEEBY: Can you say that cite again?

8 THE COURT: It is 488 U.S. 272.

9 MR. McKEEBY: And just as a practical
10 observation, I mean, if the rule is that I can't
11 talk to Mr. Schneider in this context, I mean, what
12 would prevent plaintiff from calling all of the key
13 defense witnesses, asking them -- getting them sworn
14 in, asking them their name and address, and then
15 dismissing them, and then, you know, I couldn't talk
16 to -- you know, defense counsel can't talk to the
17 witnesses. That can't be the rule.

18 THE COURT: I see your point.

19 MR. GREENFIELD: Your Honor.

20 THE COURT: Okay. Give me five minutes.

21 MR. GREENFIELD: Well, hold -- and may I
22 just offer -- I haven't had a chance to look at
23 this, but an associate brought me U.S. v. Torres, it
24 is a Fifth Circuit case. 997 F.3d 624, 2021 case.

25 THE COURT: All right. We will see y'all

1 in five minutes.

2 (Recess.)

3 THE COURT SECURITY OFFICER: All rise.

4 THE COURT: Okay. You can be seated.

5 Let me tell you, after looking at all of
6 the cases, my tentative leaning on each witness that
7 we are talking about, Carter and Schneider, and then
8 y'all can tell me why I'm wrong and talk me off my
9 position.

10 Okay. So for Carter, I'm looking at the
11 cases we all talked about, and in addition, I'm
12 looking at a case Potashnick versus Port City
13 Construction. Potashnick is P-O-T-A-S-H-N-I-C-K.

14 That citation is 609 F.2d 1101. It's
15 Fifth Circuit from 1980. It talked about the
16 general principles of Geders being applicable in
17 civil cases as well, largely due to the Seventh
18 Amendment right to a jury trial dating back to
19 Biblical times of sequestering witnesses. So they
20 seem to think it is a pretty old notion, pretty old
21 practice, notwithstanding Rule 16.

22 So basically, what I'm thinking about is
23 obviously the principles of Geders cross apply when
24 it is a civil litigant, and Potashnick is making it
25 clear it is a civil litigant who is a party

1 litigant. Right? And Carter is a party litigant.

2 So I think the gist of what I gather from
3 Potashnick is, I'm probably not able to sideline her
4 from talking at a break as significant as a weekend
5 from talking to counsel.

6 I have concerns about coaching. But I
7 think the way Potashnick, Geders, and the later
8 Supreme Court case I gave you talks about when you
9 have a heightened interest, like in a criminal case
10 for a criminal defendant or a civil party litigant
11 with a Seventh Amendment rights, that that right
12 warrants in favor of the ability to talk to counsel,
13 with cross-examination being the remedy for concerns
14 about coaching.

15 Does that make sense? So you can talk to
16 your client, but they get to cross-examine on Monday
17 everything, you know, you talked about. Right?
18 Can't disclose privilege, but they can get as close
19 as they can to ferret out what was talked about.

20 Using the same framework, the tough thing
21 for me to figure out is, who is Schneider? Does
22 that make sense? So Southwest could be a litigant
23 with someone who has an agent or an officer who has
24 the same Seventh Amendment interest that Carter
25 does.

1 So the million dollar question becomes,
2 who is Schneider? He's not the 30(b)(6). In
3 Potashnick, in footnote 12, it talks about the
4 president and CEO of that corporation being the
5 officer or agent, notwithstanding whether or not
6 they were a 30(b)(6).

7 So we know it is broader than 30(b)(6).

8 So I guess my question is, who is
9 Schneider? So I don't have -- I don't have a
10 definitive answer on Schneider. If he was a
11 30(b)(6), I would say have at it. He's under the
12 same position as Carter over the weekend. I don't
13 know the answer as we sit here right now.

14 MR. PRYOR: I don't believe he was a
15 30(b)(6). He's not a designated representative.
16 He's not an officer. Not a controlled person. I
17 haven't read the case, your Honor, but he's a
18 witness. And he's a -- I don't know if he's a
19 base -- I think he's a base manager.

20 THE COURT: And Southwest can talk to me
21 about whether my tentative leaning on the cases is
22 wrong or not and then facts about Schneider.

23 And y'all talk to me about Carter too.
24 Right? If I'm wrong on Carter, tell me I'm wrong on
25 Carter.

1 MR. McKEEBY: Well, I mean, Schneider is a
2 base manager of the Denver base and he's the
3 decision maker in the case. And I don't -- I think
4 Potashnick doesn't -- I agree, it talks in terms of
5 a party, so it may not be applicable.

6 But I don't think there is any other
7 contrary case law -- that I have found, anyway -- to
8 suggest that we couldn't talk to him over a weekend
9 break. Particularly given his importance in the
10 case.

11 And again, I go back to the argument that
12 I made before we broke, that if that were the rule,
13 then the litigant could effectively deprive counsel
14 from talking to their key witnesses by calling them
15 during their case in chief and asking them a couple
16 of simple questions, and -- after they were sworn
17 in. And then they would be barred from talking to
18 them at any point during the case, prior to putting
19 them on the stand, and that just can't be -- can't
20 be the rule.

21 THE COURT: Well, I think that is why that
22 person is normally designated as a corporate rep.
23 Right? That person with the most acute concern
24 there, if that makes sense.

25 MR. McKEEBY: Well, it doesn't, I mean,

1 because there are -- you know, may be multiple
2 critical witnesses that may not be a corporate rep,
3 where you can only designate one corporate rep.

4 And so, you know, as such, they could
5 effectively bar communications between counsel and
6 these witnesses simply by calling them to the stand
7 and asking a few questions. And depriving the
8 client of the ability to communicate with their --

9 THE COURT: I know your argument as a
10 general concern. I don't think that that has
11 happened in this case.

12 MR. McKEEBY: I'm not suggesting -- I'm
13 suggesting that that is why it can't be the rule
14 because of that potentially absurd result.

15 THE COURT: I understand that.

16 I don't see that result in this case.

17 But -- okay. So any other arguments on
18 Schneider, factually or legally?

19 MR. McKEEBY: And I have another argument,
20 your Honor.

21 I mean, this is a -- for Southwest
22 purposes, an employment case in which the critical
23 decision is the termination of Ms. Carter's
24 employment. So he's acting as the agent. He's the
25 decision maker and he's acting as the agent for

1 Southwest as to that decision.

2 So in that sense, he is a party, every bit
3 as much as a corporate officer may or may not be,
4 like Sonya Lacore, who didn't have anything to do
5 with the decision. He's the agent as to the
6 decision at issue in the case.

7 THE COURT: Understood. Why is he not
8 your corporate rep, then?

9 MR. McKEEBY: Because he lives in Denver.

10 THE COURT: Okay. Response.

11 MR. PRYOR: Yeah. The response is, he was
12 the decision maker in the underlying facts in 2017.
13 I haven't read the case, judge. Based on what you
14 were saying, it sounds like it's talking about
15 someone involved in the litigation that is a control
16 person, or corporate rep, or something like that.

17 I mean, Mr. Schneider has not been a
18 player in this litigation. He was -- I guess he was
19 deposed. He was deposed and he took the stand. He
20 was a witness.

21 And he certainly, according to them, is
22 the one that made the decision to terminate her.
23 And if that is all it takes for a base manager --
24 he's not a senior manager in the company -- to fire
25 someone, and that case there applies to him, okay.

1 But it didn't sound like it.

2 THE COURT: Understood. So, I mean, my
3 view of this -- and I see the argument that he was
4 the decision maker in this case -- I think from
5 Potashnick, I'm looking at it as a party as a whole
6 and the party's rights as a whole.

7 I think what I would say is, I would allow
8 any corporate rep to then slide out from the pretty
9 restrictive officer or agent kind of notion, right?
10 And say, okay, name that person your corporate rep
11 and they get immune from the operation of the rule
12 and the restraint from talking about the case, but I
13 don't think I can get there with him. I think I
14 could if he were named the corporate rep. I just --
15 I can't.

16 So I won't lift my restriction. I don't
17 know where Carter is. So I feel like under
18 Potashnick, Geders, I need to lift restriction on
19 Carter, but knowing full way you can cross exam to
20 the fullest extent any information on their
21 discussions.

22 MR. PRYOR: Your Honor, in regard to
23 cross-examination about communications with an
24 attorney? That is the spirit of that case, is they
25 are allowed to ask about communications with the

1 counsel?

2 THE COURT: Well, you can go read Geders
3 over the weekend. So it -- that sounds like your
4 homework. Right?

5 Geders contemplates it, Potashnick
6 contemplates it. They say that there is this
7 balance, courts hate coaching of witnesses, and
8 there is a right to counsel under the Fifth
9 Amendment for criminal cases, under the Seventh
10 Amendment for civil cases.

11 And how we balance that out is, if it is a
12 party litigant or a criminal defendant, we let them
13 talk to their counsel, but let the other side
14 cross-examine them on what coaching occurred.

15 All right? So we are all going to have to
16 figure out where that line is. Obviously, we can't
17 compel her to disclose truly privileged information.

18 But if I ask somebody, did you talk to
19 your lawyer, what did you talk about, that is not
20 privileged, right, it is just not. Everyone thinks
21 that it is. But when you do a privilege log, all of
22 that stuff is in the privilege log, and the
23 privilege log is not privileged.

24 MR. PRYOR: But what did you talk about?
25 You don't get really into the specifics of that.

1 THE COURT: What did your lawyer tell you
2 is off limits. We all know that. So the question
3 is, what did you talk about, and how granular you
4 can go. That is the question.

5 MR. McKEEBY: Your Honor, a couple of
6 points. One is, I have spoken -- because I
7 recognize now that Mr. Jones also, I think, resides
8 in Colorado, so, I mean, there were other decisions
9 in connection with --

10 THE COURT: Sure. It is always a
11 multi-factor analysis.

12 MR. McKEEBY: It is a multi-factored
13 assessment.

14 But I would also like some guidance. I
15 mean, is -- can I speak to him just generally
16 about -- not about the case or about what witnesses
17 talk about, but just about, you know, the things
18 that I would recommend in terms of testimony and
19 witness presentation and that kind of thing or are
20 you saying I just can't talk to this witness at all?

21 I mean, if I -- I think if I don't talk to
22 him about, you know, the substance of any evidence
23 that has come in or go over documents and things
24 like that, I should at least be able to talk to him
25 about the rules of being a good witness and, you

1 know, when to volunteer information and not
2 volunteer information, and that type of thing. But
3 I want to make sure that the Court is comfortable
4 with that.

5 THE COURT: I can say one thing and ask
6 for any comments on the other side.

7 The takeaway I got from reading all of the
8 cases is there is a middle ground approach between
9 you can talk anything but cross-examination on
10 coaching; you can talk about nothing; and then the
11 middle ground approach, which was useful really only
12 with some of these heightened interest cases is, an
13 instruction that someone can talk about general
14 trial strategy and scheduling of other witnesses.

15 And I don't know that that is the case
16 with Schneider. I mean, it sounds like what you are
17 wanting to talk with Schneider about is how he can
18 be a good witness.

19 MR. McKEEBY: Yes.

20 THE COURT: And it is mild coaching,
21 right? It is not here is how you should answer this
22 question.

23 MR. McKEEBY: Of course. Of course.

24 THE COURT: But it is general decorum. So
25 I'm not accusing you of anything unethical there.

1 But I haven't seen anything that lets me carve that
2 description out from the cases.

3 Now, if I'm wrong and you find something
4 concrete that gives me that, file something. I'm
5 paying attention to the docket this weekend. I'm
6 working like y'all are. So file something and we
7 will take a look at it.

8 Any comments from Carter?

9 MR. PRYOR: One thing I do know is what
10 the rule requires when you invoke the rule and what
11 he discussed would violate the rule, in our view.

12 THE COURT: Understood. Which is why I
13 don't know authority that would let me, right?
14 Perhaps there is a case that says, oh, that really
15 doesn't violate 615. I understand that.

16 There might always be a case out there,
17 which I oftentimes dig for cases and don't just rely
18 on the face of the rule. And this exercise is a
19 great demonstration of that.

20 Okay. So can y'all tell your client that
21 I am now lifting the rule because it is a weekend.
22 She's a civil party litigant with a heightened
23 interest under the Seventh Amendment that means when
24 I get as far as a weekend, right? Where we are even
25 beyond the Geders 17 hours, I feel I'm outside of my

1 authority, if I ask her to not talk about the case.
2 But there is a right to cross-examination. Exactly
3 how far that will go, we will find out on Monday.

4 MR. PRYOR: Okay. We will do that.

5 THE COURT: Other issues, you've got a
6 depo to get to in two and a half hours. I hope.

7 Can there be some sort of notice, even if
8 just by email, if the depo actually happens?

9 MR. PRYOR: Yes.

10 MR. HILL: To Kevin?

11 THE COURT: Kevin and Savannah.

12 Right. So I guess -- so it would be on
13 Sunday, then, that we have 6 p.m. disclosures of
14 what is going to happen the next day and 8 p.m.
15 response.

16 But I understand baton handoff will happen
17 Monday. So I guess the question is, then Sunday, at
18 6 p.m. y'all need to disclose who y'all would call,
19 right? Because it will be a day of evidence for one
20 of you.

21 So I guess arm wrestle and figure out
22 which one of you wants to present a case first.
23 Again, I don't have any problems if y'all
24 intermingle and you take turns presenting a witness.
25 That is fine by me.

1 But if y'all are going to time on Monday,
2 we need some disclosures Sunday night on what y'all
3 expect to get to on Monday. But I won't baby-sit
4 y'all and say who has to go first.

5 Okay. Anything else? I gave a 24-hour
6 extension on briefing to me on protected activity in
7 the jury charge.

8 And then we talked about Monday at 8, we
9 will show up. I know that hurts, but if you file
10 anything on jury charge that persuades, obviously I
11 need that by Sunday at five, so I can read it.

12 MR. HILL: Will they let us up the
13 elevator?

14 THE COURT: I certainly hope so. I don't
15 think there is much line of security at 8:00.

16 Other questions?

17 Okay. We will see y'all Monday morning at
18 8:00 and see you through filings and emails before
19 then.

20 Thanks, y'all.

21 THE COURT SECURITY OFFICER: All rise.

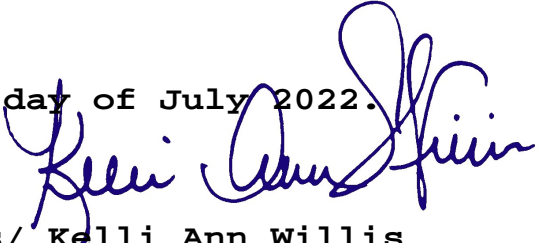
22 (Proceedings concluded at 5:34 p.m.)
23
24
25

C E R T I F I C A T E

I, Kelli Ann Willis, RPR, CRR, CSR
certify that the foregoing is a transcript from the
record of the proceedings in the foregoing entitled
matter.

I further certify that the transcript
fees format comply with those prescribed by the
Court and the Judicial Conference of the United
States.

This 9th day of July 2022.


s/ Kelli Ann Willis
Official Court Reporters
Northern District of Texas
Dallas Division

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